FIRST
ANNUAL REPORT
OF THE
OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER
AND THE
POLICE COMPLAINTS BOARD

December 21, 1981 to December 20, 1982

THE OFFICE OF
THE PUBLIC COMPLAINTS COMMISSIONER

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June, 1983.

The Honourable R. Roy McMurtry,
Attorney General for Ontario,
Ministry of the Attorney General,
18 King Street East,
TORONTO, Ontario.

Dear Mr. Attorney:

I am pleased to enclose herein the First Annual Report of the Office of the Public Complaints Commissioner and the Police Complaints Board.

Yours very truly,

SIDNEY B. LINDEN, Q.C.,
Public Complaints Commissioner.

SBL/kc

"In a democratic society, no police force, no matter how generally well respected, should be allowed to be a law unto itself. To rely solely upon a police force's integrity and self-discipline is to permit that force to become a law unto itself."

Mr. Justice Horace Krever,
Report of the Commission
of Inquiry into the
Confidentiality of Health
Information.

(Ontario Commission of Inquiry,
1980, Vol. II, p. 48).

PREFACE

Our first full year of operation has been challenging and exciting. The Metropolitan Police Force Complaints Project Act, 1981 provides for a three year pilot project from December 21, 1981 to December 20, 1984. Accordingly, much of the data contained herein is presented without any critical evaluation. While it is premature at this time to draw any final conclusions, we have made great strides and advanced the project beyond our early expectations. When we began, in view of the history of this subject matter, there was considerable misunderstanding and scepticism about how the new system would work.

During the year we learned that there are no quick answers to these very complicated questions. We learned that police community relations should not be viewed as a "problem" that has a "solution". It should be viewed as a continuing situation and we must recognize that as long as there are policemen and civilians, incidents will occur. Therefore, it is vital that an agency such as ours should exist within the community to deal with these incidents when they do occur.

Throughout, our objective has been and will continue to be to improve relations between the police force and the community. As the year progressed we were confronted with issues and made decisions about matters that could not have been contemplated prior to commencement. That is the very essence of a pilot project. However, the system is now in place and civilian review of police conduct, which was once thought of as extraordinary, is occurring routinely. Furthermore, it is my view that the full potential of this office has not yet been realized.

Clearly, our initial success would not have taken place without a great deal of co-operation. I want to take this opportunity to thank the Board of Commissioners and the Chief of Police, the President of the Police Association and many individuals and groups in the community, too numerous to mention, whose help and support was generously offered and gratefully accepted.

I also want to thank Dr. Ann Cavoukian of the Ministry of the Attorney General who is responsible for directing the research for our office. Dr. Cavoukian's importance and contribution to our endeavours cannot be overstated.

Because this was our first year, time had to be devoted to setting up the office, hiring the staff and developing new procedures. We moved into our new office at the end of April, 1982 and the Board was appointed in June.

In view of the interest expressed in our civilian investigators, I have included some biographical information about each of them. I have also included an organizational chart for our office.

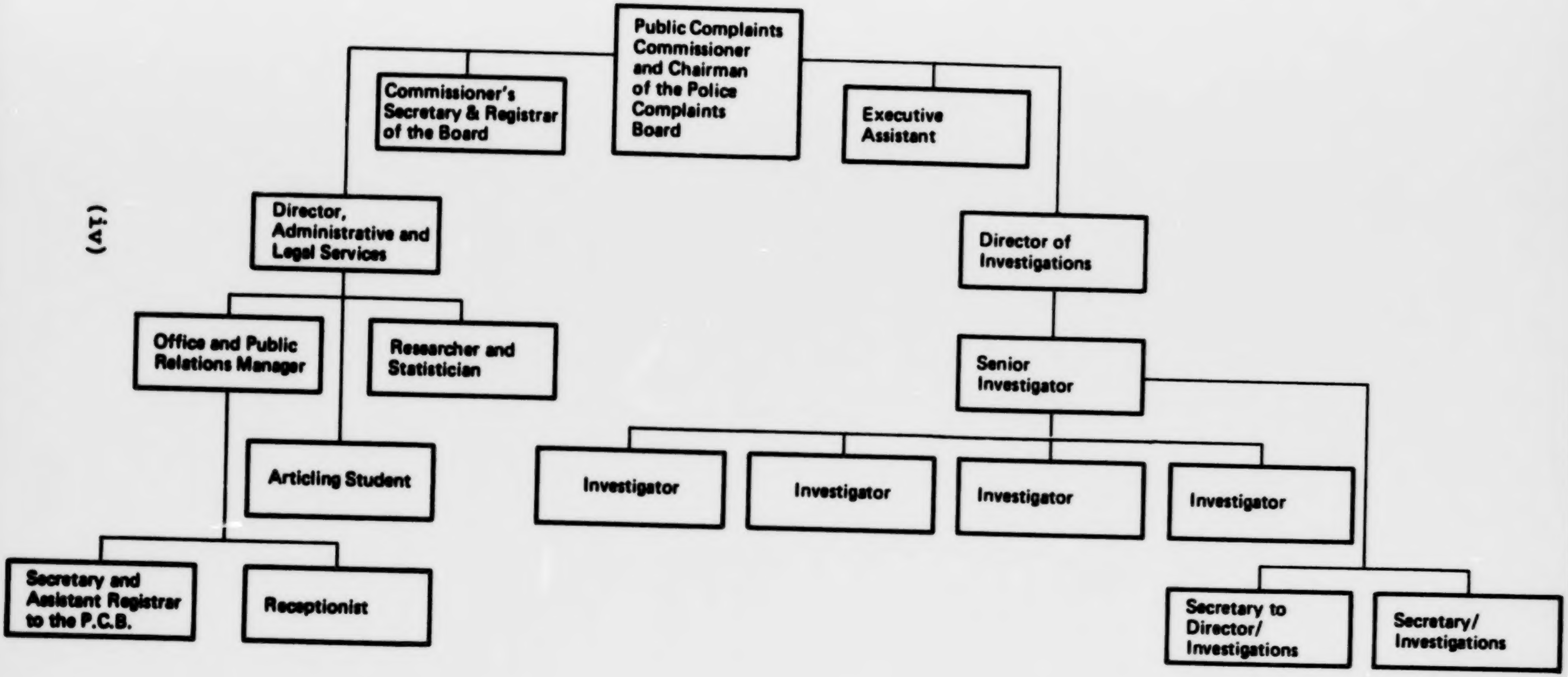
Finally, I want to express my gratitude to our very able staff. Each person has an appreciation for the delicate, sensitive nature of our work and each has taken personal pride in doing his or her best to ensure that this experiment succeeds. It has been very much a team effort and rather than single out any individual, I want to express my sincere appreciation to each and every one of them.

SIDNEY B. LINDEN, Q.C.,
Public Complaints Commissioner.

June, 1983.

OFFICE OF THE
PUBLIC COMPLAINTS COMMISSIONER

ORGANIZATION CHART


Public Complaints Commissioner and Chairman of the Police Complaints Board
Commissioner's Secretary & Registrar of the Board
Executive Assistant
Director, Administrative and Legal Services
Director of Investigations
Office and Public Relations Manager
Researcher and Statistician
Senior Investigator
Articling Student
Investigator
Investigator
Investigator
Investigator
Secretary and Assistant Registrar to the P.C.B.
Receptionist
Secretary to Director/ Investigations
Secretary/ Investigations

INVESTIGATIVE STAFF

Our Director of Investigations was born in Lancashire, England and served for ten years on the Manchester City Police Force, attaining the rank of Sergeant. He came to Canada in 1966 and served for three years (1966 to 1968) on the Metropolitan Toronto Police Force. He was Executive Director of a real estate board and has operated his own real estate business. He has also been an investigator for what is now the Ministry of Consumer and Commercial Relations. In 1976 he joined the Office of the Ombudsman, eventually becoming the Director of General Investigations for that Office.

Our senior investigator is originally from Edinburgh, Scotland and came to Canada in 1952. Thereafter, she joined the Metropolitan Toronto Police Force and during her four years with the force was predominantly assigned to the Morality Bureau. She was awarded two commendations for successful investigations. After leaving the police force in 1962, she held executive positions with several private corporations. Prior to joining our staff she was employed by a large company that provides security services, serving in the capacity of Administrative Assistant to the President of the company.

Another of our investigators received a Bachelor of Science degree from the University of Toronto. After graduation he joined the Office of the Ombudsman as an interviewer and was later promoted to an Administrative Assistant. He then became an investigator where he remained until joining our staff.

One of our investigators is a lawyer, receiving her law degree from the University of Toronto and called to the Bar in 1982. She articled with the Ministry of the Attorney General, Crown Law Office, Criminal Division before joining our Office.

One investigator came to Canada from Ethiopia where he had been a Judge of the High Court. Prior to his appointment, he served as Chief Legal Adviser to the Minister of Health in Ethiopia and was also an associate editor of the Journal of Ethiopian Law and the Consolidated Laws of Ethiopia. He has a Master's degree in law and was enrolled in a doctoral program at the Faculty of Law, University of Toronto before joining our staff.

One of our investigators received her B.A. at the University of Toronto and subsequently obtained an Ontario Secondary School Teaching Certificate. She taught high school for several years as well as teaching English as a second language. Prior to joining our staff she was the Research Project Co-ordinator for a research foundation affiliated with the University of Toronto.

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PART I

Background

PART I

BACKGROUND

A. REASON FOR THE LEGISLATION

Prior to the establishment of Toronto's Office of the Public Complaints Commissioner, the procedure for dealing with complaints by members of the public against members of the Metropolitan Toronto Police Force had been the object of criticism for some time. Until the establishment of this pilot project, individuals had to make their complaint to a police officer, had no knowledge of the extent of the investigation done by the police and were advised, orally, or by form letter only, of the decision of the Chief of Police with respect to their complaint. Generally, the complainant was given no explanation of how the decision was reached. Civic and community leaders joined with members of the Bar, civil rights groups and many police officers in pointing out the need to change a system that was perceived to be closed and unfair.

Many studies were conducted over the years with a view to finding a possible solution. All of these studies recommended greater civilian participation in the complaint handling process. (For a list of some of these studies, see Appendix "A").

In the Royal Commission into Metropolitan Toronto Police Practices, Mr. Justice Donald R. Morand recognized the need for experimentation when he stated:

> *"a system for citizen complaint procedures in Toronto...is untried, and no doubt will involve experimentation in the initial stages, but this can be said of any new system of police complaints procedure. Initiative is needed and some risk is inevitable."* *(p. 187, report)*

On May 15, 1981, the then Solicitor General of Ontario, the Honourable R. Roy McMurtry, introduced a new bill in the Legislature (Bill 68) declaring the formation of a new and experimental police complaints system for Metropolitan Toronto.

The new system injects a civilian component at every critical phase of the procedure. It allows complainants to make their complaints initially to a civilian agency, the Office of the Public Complaints Commissioner; it ensures that complainants are provided with regular, written investigative reports; it also gives the complainant an opportunity to ask for further investigation of his complaint by civilians and for a review of the whole procedure by a civilian who can order a public hearing of a complaint by a new, totally independent civilian agency, the Police Complaints Board.

B. JUSTICE COMMITTEE HEARINGS

Following the second reading of the Bill on July 3, 1981, it went before the Legislature's Standing Committee on Justice for further study and amendment in the fall of 1981. Submissions by various interested parties were made at these public hearings over a period of four weeks.

Throughout the hearings, the major criticism of the Bill was that the police were still involved in the investigation process. The notion that the police force's Public Complaints Investigation Bureau ("the Bureau") would continue to conduct the initial investigation of most complaints came under attack. It was argued that a system of civilian monitoring of the police investigation could not sufficiently eliminate the perception of bias. Members of the public might still suspect that investigators at the Bureau would be vulnerable to "covering up" for their colleagues or fellow police officers.

The Minister's response before the Justice Committee was that the Bill completely opened the complaints system to public review. It required the police force to respond effectively to complaints of misconduct and it installed independent civilians as the ultimate arbiters of police conduct with the power to conduct their own investigation, where appropriate. Furthermore, placing upon the police the initial responsibility to resolve complaints reflects a philosophy which is consistent with every major report or study done in Canada as well as in other jurisdictions.

There were also a number of criticisms regarding procedure. As a result of the Justice Committee hearings, some procedural changes were made. After the Bill was proclaimed in force, the administrative responsibility for the Office of the Public Complaints Commissioner was transferred from the Ministry of the Solicitor General to the Ministry of the Attorney General.

C. UNIQUE NATURE OF THE PROJECT

The preamble to the legislation reads:

> "...(*this is*) *an Act for the establishment and conduct of a Project in the Municipality of Metropolitan Toronto to improve methods of processing Complaints by members of the Public against Police Officers on the Metropolitan Police Force.*"

This preamble is of critical importance in any effort to understand the general purpose of the legislation. Of particular note is the fact that the Office of the Public Complaints Commissioner is involved in a "project", the main objective of which is to "improve methods of processing complaints". The project, which is confined to Metropolitan Toronto, commenced on December 21, 1981 and continues until

December 20, 1984. At that time, a report evaluating the effectiveness of the system during the three years of operation will be submitted to the Legislature of Ontario and to Council of the Municipality of Metropolitan Toronto, both of which are jointly responsible for funding the project.

The new system which is now in place provides a framework on which our Office and the Police Complaints Board will continue to build. Over the three year period the Board's decisions will develop civilian standards for acceptable police behaviour.

The Act also calls upon the Public Complaints Commissioner to recommend changes in policy and procedures in order to minimize conflict between members of the public and police. Our Office will research police complaints procedures in other jurisdictions, consult with interested groups and gather and analyze statistical data on complaints within Metropolitan Toronto itself.

The Office of the Public Complaints Commissioner in Metropolitan Toronto is, in many ways, a model for others and introduces some rather dramatic innovations with respect to civilian review of policing.

D. MAIN FEATURES OF THE NEW PROCEDURE

1. Receipt of Complaints - A person may lodge his complaint directly with the Commissioner. A person may also lodge his complaint with the police force. In this latter situation, a copy of the complaint is forwarded to the Commissioner. Regardless of where the complaint is lodged, copies are forwarded so that both the Commissioner and the police are aware of all complaints immediately.

2. Investigation of Complaints - The complainant, the police officer concerned and the Public Complaints Commissioner are advised, in writing, every month, of all the investigative steps taken by the Bureau. When the investigation is completed, a final report is received detailing everything that is uncovered by the police investigation, including the police officer's version of the incident.

   The Commissioner has the authority to investigate the allegations in the complaint, 30 days after the complaint is received or earlier, if there are reasonable grounds to believe that there has been undue delay or other exceptional circumstances to warrant this early intervention. Upon receipt of a copy of the final investigation report, the Commissioner may request the Chief of Police to conduct further investigation into the complaint. In these ways, the Commissioner monitors the conduct of all investigations.

3. Resolution of Complaints - A complaint may be resolved informally by the police during the course of or prior to a formal investigation. In these situations, a record of the informal resolution is forwarded to the Commissioner. The Commissioner reviews the record of the informal resolution and may, after such review, request that investigation or further investigation be done by the police. The Commissioner can personally resolve a complaint informally at certain stages in the process.

4. Review Process - Once the investigation is completed, the Chief of Police decides what, if any, further action should be taken. This decision is based solely on the police investigation reports, summaries of which are sent to the Commissioner, the complainant and the subject officer, together with any investigation reports that are provided by the Commissioner. This ensures that the basis for the Chief's decision is known to all parties.

   A complainant who is not satisfied with the decision made by the Chief of Police has the right, in most circumstances, to have the Commissioner review the matter. As well, if the Chief of Police has caused disciplinary proceedings to be taken under the Police Act and the complainant is not satisfied with the decision made in the disciplinary proceedings, the complainant has the right to request the Commissioner to review the matter. The review by the Commissioner may involve further investigation into the allegations made by the complainant. If the Commissioner decides to take no further action, he must give reasons. These reasons are provided in a written report which is submitted to the complainant and to the subject officer. This report contains a detailed analysis of the complaint and the investigation together with the Commissioner's conclusions.

5. Decision to order a Police Complaints Board Hearing - After completing his review, the Commissioner may order a Board hearing if he believes that, in the public interest, such a hearing is required.

   If the Commissioner orders a hearing, it is his responsibility to assign a member or members of the Board to conduct the hearing. The Commissioner must decide whether the complaint alleges misconduct by the police officer that is of a minor nature or serious nature. In the former case, he will assign one member of the Board who has had training in law to sit alone to conduct the hearing. In the latter case, he assigns three members of the Board, one of whom must have training in law, who constitute a panel to conduct the hearing.

6. Chairman of the Police Complaints Board - The Commissioner is the Chairman of the Police Complaints Board and has general supervision and direction over the conduct and affairs of the Board. It is his duty to arrange the sittings of the Board and to assign members to conduct hearings, as circumstances require. The hearings are open to the public and the Board may appoint counsel to assist at the hearing. All parties have the right to appear before the Board with a lawyer, if they wish, to present evidence and to cross-examine witnesses. The Board has the power to impose broad penalties upon officers against whom there has been a finding of misconduct.

7. Recommendations - Where, after completing a review, the Commissioner is of the opinion that a police practice or procedure should be altered in order to minimize conflict between citizens and police, he must report his opinion and recommendations to the Attorney General, the Ontario Police Commission, the Metropolitan Toronto Board of Commissioners of Police and the Chief of Police.

8. Appeals - Where the Chief of Police has caused disciplinary proceedings to be taken under the Police Act and a penalty has been imposed, the police officer concerned may appeal to the Board and the Board must hold a hearing.

   A party to a hearing by the Board may appeal from the decision of the Board to the Divisional Court in accordance with the Rules of Court. An appeal may be made on a question that is not a question of fact alone or from a penalty imposed or on both the question and the penalty.

9. Confidentiality - The legislation provides, with some exceptions, that every person engaged in the administration of the Act and the Regulations including a member of the Metropolitan Police Force, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties and shall not communicate any such matter to any other person. "Every person engaged in the administration of the Act" seeks to include employees of the Office of the Public Complaints Commissioner, the Bureau and the members of the Police Complaints Board.

   Any person who contravenes this section is guilty of an offence and on conviction is liable to a fine of not more than $2,000.00.

   No person who is engaged in the administration of the Act and regulations may be required to give testimony in any civil suit. He may, of course, be required to testify at a Police Complaints Board hearing or at a disciplinary proceeding under the Police Act. The Act makes every attempt to ensure that those who administer it respect the privacy and confidentiality of each and every complainant and subject police officer.

E. EVOLUTION OF INVESTIGATIVE PROCEDURES

Prior to the inception of our Office, people who complained of police misconduct had no right to know the extent of the investigation into their complaint. The complainant would not know if the investigator interviewed each witness personally or requested a written statement; he would not know which persons were unavailable or who may have refused to comment; no information would be available as to what corroborative evidence existed, nor as to what physical evidence was obtained.

Formerly, the Citizen Complaint Bureau would investigate the allegation made and send an internal report and finding to the officer in charge. This synopsis was not ordinarily made available to the complainant. Where the Chief of Police concurred with the Bureau's finding the response was by form letter. The complainant was usually advised that the Chief or his designate had reviewed the file and agreed with the findings of the Bureau. Generally, reasons were not given and no attempt was made to support the findings with the evidence. No matter how thorough the investigation may have been, the inference of summary treatment was irresistible.

Pursuant to regulations made under the Act, forms were prescribed for use by the newly constituted Public Complaints Investigation Bureau. The "Bureau", a separate unit within the police force, was formerly known as the Citizen Complaint Bureau. Now, as soon as a person registers a complaint, he receives a detailed statement, Form 2, which sets out the complaint procedure and the rights which accrue to the complainant. This statement is reproduced in Appendix "B".

Further, in consultation with the Bureau, a new investigative format was prepared, setting out the steps that are to be taken in each investigation. This format is now contained in the Regulations to the Act and may be found in Appendix "C".

Under the new system, the Regulations require that:

> "4. *An investigation under section 9 of the Act shall be pursued quickly and diligently and the investigator shall endeavour to obtain all information that may have a bearing on the complaint.*
>
> 5. *All information and evidence obtained in the investigation shall be recorded and preserved.*

> *6. The investigator shall endeavour to interview the person making the complaint and the police officer concerned and to obtain written statements from them.*
>
> *7. The investigator shall endeavour to interview the witnesses named by the person making the complaint and the police officer concerned and witnesses located as a result of the investigation and to obtain written statements from such witnesses.*
>
> *8. The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigation and could only be preserved by way of photographs.*
>
> *9. Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence.*
>
> *10. The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint.*
>
> *11. The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved.*
>
> *12. Any information, notes or evidence, except physical evidence, that is required to be preserved under sections 5 and 11 shall be retained for a period of two years after the complaint is finally disposed of."*

The new system also requires the investigator to send monthly summaries of the investigation to our Office, the complainant and to the police officer concerned. Upon completion of the investigation, a final report is sent. The forms outline each step taken in the investigation, the witnesses interviewed, statements given and a description and analysis of documentary and physical evidence obtained. The evidence is now a matter of public record. The adjudicator, who is the Chief's designate and who is separate from the

Bureau, is now obliged to support his decision with that record. (An example of an Interim Report is found at Appendix "D". An example of a Final Report is found at Appendix "E". An example of the Chief's Designate's decision is found at Appendix "F").

The civilian investigators in our Office are able to monitor the progress of the Bureau's investigation through the monthly reports. If it appears that there has been an oversight, further investigation can be requested. Often our investigators are able to resolve the matter by communicating with the Bureau by telephone. This informal method of dealing with issues has proved very effective. However, sometimes requests for additional information are made in writing. In all cases, our requests for information have been complied with by the police.

Aside from the changes required by the legislation itself, other significant changes in investigative methods have been developed through discussion and negotiation between the Bureau and our investigative staff.

For example, the previous practice of the Bureau investigators drawing conclusions from the evidence, while conducting the investigation, confused the roles of investigator and adjudicator. In this way, the investigation was unlikely to come under any objective scrutiny. We believed it was crucial to the success of this project that the Bureau split its function into two -- investigation and adjudication. It was typical of the performance of the Bureau that our position on this issue had been anticipated. At one of our earliest meetings we were advised that this division was already taking place.

The Inspector who heads the Bureau now reports to the Deputy Chief, Support Services who has the responsibility for the proper operation of the investigative branch. The Deputy Chief, Executive Services, has been designated by the Chief of Police to decide the merits of each case, once the investigation has been completed. Consequently, investigative and adjudicative functions have now been separated within the police force.

At the outset of the project, the investigation reports we received seemed to indicate that the Bureau was not reporting fully on those cases it deemed to be of a minor nature.

The problem with this approach was that a police officer's view of the seriousness of a complaint could obviously be very different from that of a complainant. It also failed to take into account the public relations aspect of the Bureau's work. No recognition was given to the fact that a dissatisfied complainant creates an adverse reaction to the force whether his complaint is of a serious nature or not.

From another perspective, a serving police officer against whom a complaint has been made may also feel that a complaint categorized by the Bureau as minor will nonetheless be a serious blot on his record. He may not be satisfied with an investigation that leaves the matter at an inconclusive stage when further diligent investigation could absolve him of blame.

There have been instances during this first year where allegations against police officers left unresolved by the Bureau have been shown, upon further investigation by our Office, to have been completely unfounded.

Efforts continue to be made to ensure that in all complaints every avenue of investigation is pursued and that police officers' replies to complaints are fully responsive to the allegations. The Bureau reports now indicate that this is being done. In my view, it is important that all investigations continue to be conducted in this way.

PART II

Research and Statistics

PART II

RESEARCH AND STATISTICS

A. INTRODUCTION

An extensive research program was designed to collect the maximum amount of information on the operation of our Office. Keeping in mind that the objective of our pilot project is to improve methods of processing complaints, I believe that keeping statistics will enable us to develop a global perspective. This will enable us to detect patterns or trends and thereby recommend possible preventive action.

It should be noted that the statistics contained herein do not deal with police internal disciplinary matters - that is, matters which are not the subject of a public complaint made under the Act. Internal discipline is governed by the Police Act and regulations and by various by-laws of the Metropolitan Toronto Board of Commissioners of Police. The police force, itself, initiates disciplinary action against an officer when warranted. In any given year there are charges laid under the Police Act and the Criminal Code as well as less formal types of disciplinary action taken. Sometimes as the result of the investigation into a public complaint, information is brought to light which, although not part of the complaint allegation, nonetheless results in the police initiating action against an officer. For example, investigation into a public complaint of incivility may reveal that a police officer was not keeping proper records. This type of action is not included in these statistics. These statistics deal only with public complaints.

Among the research instruments that we developed for our purposes were the following:

1. Police Officer Questionnaire - administered to all officers of the Metropolitan Toronto Police Force in order to gauge their impressions of our Office and to enable them to air any concerns that they may have.

2. Complainant Questionnaire - sent to all complainants whose cases were closed during the first year of operation in order to determine their satisfaction or dissatisfaction with the new complaints procedure.

   Responses to both sets of questionnaires are being compiled and will be included in subsequent reports.

3. Complaint Recording Form - to monitor all stages of a complaint and gather extensive data on each case (discussed in detail below).

Research data and statistics on all phases of the new complaints procedure were gathered for the period of one year from December 21, 1981 to December 20, 1982. All cases that were closed within that period are included in the present database.

A total of 922 cases were opened in 1982 subsequent to the proclamation of the Act on December 21, 1981. Of the 922 cases, 609 cases were closed (completed) by December 20, 1982; 281 cases remained open and 14 cases failed to develop.* The remainder of the cases dealt with the Hold-Up Squad investigation and will be reported separately.

---

* Cases that failed to develop were cases that included, among others, complainants who arranged meetings with investigators and failed to attend, complainants who failed to contact the Office or who did not respond to follow-up letters and complaints that proved to be out of our jurisdiction.

The 922 cases filed in 1982 represent an average of roughly 77 cases per month. The actual number of complaints that was filed each month is presented below.

	No.	%
January	78	8.5
February	75	8.1
March	78	8.5
April	67	7.3
May	82	8.9
June	86	9.3
July	79	8.6
August	76	8.2
September	97	10.5
October	65	7.0
November	77	8.4
December*	62	6.7
TOTAL	922	100.0

Upon termination of a complaint, the closed file was forwarded to the Research Section and a Complaint Recording Form was completed. The Complaint Recording Form was designed to obtain the maximum information from each complaint case file, such as: the date, location and police division of the occurrence; number and type of allegation; precipitating factors and injuries (if any), and extensive details on all stages of the complaint process from the date of filing to the date of final disposition. Information relating to the time involved from one stage of the process to various other stages was also gathered in order to provide an indication of how efficiently the system is operating.

---

*The total of 62 complaints filed in the month of December consists of complaints filed at two time periods: December 21 to 31, 1981 and December 1 to 20, 1982.

B. RESEARCH FINDINGS GATHERED FROM COMPLAINT RECORDING FORMS

The statistics collected from Complaint Recording Forms dating from cases closed between December 21, 1981 and December 20, 1982 will be presented and discussed below. This database consists of a total of 609 cases.

1. Where Complaints Filed

The majority of the complaints were filed at a police station (47.1%); 26.8% were filed with the Public Complaints Investigation Bureau; 4.3% were filed with the Chief of Police. 0.8% of the complaints were filed with the Ontario Police Commission while 0.5% were filed with the Attorney General. The remaining 20% of the complaints were filed with our Office. This figure marked a considerable increase of 15% from the pre-proclamation period: only 5% of the cases were filed with our Office during that time compared to the present rate of 20%. This data may be found in Table 1. 13% of the total complaints were filed by letter while 87% were filed in person.

2. Time and Date of Complaint Incident

No discernible pattern was found with respect to the days of the week on which complaint incidents occurred. There appeared to be a fairly equal distribution of the incidence of occurrences with the exception of Mondays when fewer complaints were found to occur. The full list of the days of the week and the respective number of complaints taking place on each day may be found in Table 2.

The days on which complaints were actually filed, however, varied somewhat from the days on which the complaints

TABLE 1

LOCATION WHERE COMPLAINTS FILED

	No.	%
POLICE STATION	287	47.1
PUBLIC COMPLAINTS INVESTIGATION BUREAU	163	26.8
PUBLIC COMPLAINTS COMMISSIONER	122	20.0
CHIEF OF POLICE	26	4.3
ONTARIO POLICE COMMISSION	5	0.8
ATTORNEY GENERAL	3	0.5
OTHER	3	0.5
TOTAL	609	100.0

TABLE 2

DAY COMPLAINT INCIDENT OCCURRED

	No.	%
MONDAY	54	9.1
TUESDAY	86	14.5
WEDNESDAY	105	17.6
THURSDAY	94	15.8
FRIDAY	99	16.6
SATURDAY	90	15.1
SUNDAY	67	11.3
TOTAL	595*	100.0

* NOTE: When the total of the "number" column is less than the actual total for the database (609), the difference is due to the fact that some information required for the table was missing, thus reducing the total for that particular measure involved.

occurred. The variance between occurrence date and filing date is most likely due to the fact that relatively few complaints (33%) were filed on the same day as the date of the complaint incident. This data is presented in Table 3.

With respect to the time of day at which a complaint incident occurred, close to 60% of the incidents leading to complaints took place between 6:00 p.m. and 3:00 a.m. The one time period which accounted for the greatest number of occurrences was from Midnight to 3:00 a.m. -- 22.2% of all occurrences took place during this time period. The complete list of time of occurrences may be found in Table 4.

3. Time from Date of Occurrence to Date of Filing

The number of days from the date of the occurrence to the date the complaint was actually filed averaged 11.6 days. This figure is somewhat deceptive, however, since the majority of complaints, 74%, were filed within the first week of the occurrence: 33.7% of the complaints were filed on the same day as the date of the occurrence while 14.9% were filed on the next day. 13.5% were filed two to three days later while another 11.7% of the complaints were filed four to seven days after the incident. The data for the number of days from the date of occurrence to the date of filing is presented in Table 5.

4. Location of Complaint Incident

51.6% of the incidents that led to complaints being lodged against the police took place on the street. The next most frequent location was at a house or residence (18.1%). In order of declining frequency, incidents also occurred in:

TABLE 3

DAY COMPLAINT FILED

	No.	%
MONDAY	100	16.4
TUESDAY	100	16.4
WEDNESDAY	120	19.7
THURSDAY	108	17.7
FRIDAY	97	15.9
SATURDAY	40	6.6
SUNDAY	44	7.2
TOTAL	609	100.0

TABLE 4

TIME COMPLAINT INCIDENT OCCURRED

	No.	%
12:01 A.M. TO 3:00 A.M.	123	22.2
3:01 A.M. TO 6:00 A.M.	33	6.0
6:01 A.M. TO 9:00 A.M.	26	4.7
9:01 A.M. TO NOON	51	9.2
NOON TO 3:00 P.M.	51	9.2
3:01 P.M. TO 6:00 P.M.	66	11.9
6:01 P.M. TO 9:00 P.M.	93	16.8
9:01 P.M. TO 12:00 P.M.	110	19.9
TOTAL	553	100.0

TABLE 5

TIME FROM DATE OF OCCURRENCE TO DATE OF FILING

	No.	%
SAME DAY	202	33.7
1 DAY	89	14.9
2-3 DAYS	81	13.5
4-5 DAYS	42	7.0
6-7 DAYS	28	4.7
8-14 DAYS	37	6.2
15-21 DAYS	36	6.0
22-30 DAYS	13	2.2
31-45 DAYS	21	3.5
46-60 DAYS	9	1.5
61-90 DAYS	11	1.8
OVER 90 DAYS	30	5.0
TOTAL	599	100.0

$\overline{X}$ DAYS = 11.6

public buildings (12%), police buildings (9.5%), police vehicles (3.6%) and plazas or malls (3%). The complete list of locations of occurrences leading to complaints may be found in Table 6.

5. Police Divisions Involved in Complaints

The police division with the highest incidence of complaints was 52 Division which accounted for 14.7% of all the complaints lodged. 14 Division followed with 11.4% of all complaints, followed by 55 Division with 8.7%. 32 Division accounted for 6.9% of the complaints while 53 Division accounted for 6.5% and 13 Division for 6.4%. The remaining divisions all had 6% or fewer complaints lodged against their officers. The full list of divisions may be found in Table 7.

The unusually high incidence of complaints arising out of 52 Division may, in part, be explained by its location in the downtown core where there is considerably more activity than other areas. The high number of contacts that officers of this division have with the public would also contribute to a greater number of complaints arising out of this division. In addition, 52 Division has the largest number of police officers of any division in Metropolitan Toronto.

The police division in which the complaint incident actually occurred was often the same as the one in which the complainant lived or was adjacent to the division where the complainant lived. 49.5% of the complainants lived in the same police division as that of the occurrence; 19.3% lived in a division adjacent to the division of the occurrence. 31.2% of the complaint incidents did not take place in a division close to the complainant's residence.

TABLE 6

LOCATION OF COMPLAINT INCIDENTS

	No.	%
STREET	314	51.6
RESIDENCE	110	18.1
PUBLIC BUILDING	73	12.0
POLICE BUILDING	58	9.5
POLICE VEHICLE	22	3.6
PLAZA OR MALL	18	3.0
SCHOOLYARD	6	1.0
OTHER	7	1.2
TOTAL	608	100.0

TABLE 7

POLICE DIVISION IN WHICH COMPLAINTS OCCURRED

POLICE DIVISION	No.	%
DIVISION 11	31	5.2
DIVISION 12	18	3.0
DIVISION 13	38	6.4
DIVISION 14	68	11.4
DIVISION 21	12	2.0
DIVISION 22	27	4.5
DIVISION 23	29	4.9
DIVISION 31	35	5.9
DIVISION 32	41	6.9
DIVISION 33	19	3.2
DIVISION 41	22	3.7
DIVISION 42	11	1.8
DIVISION 43	21	3.5
DIVISION 51	24	4.0
DIVISION 52	88	14.7
DIVISION 53	39	6.5
DIVISION 54	22	3.7
DIVISION 55	52	8.7
TOTAL	597	100.0

6. Data on Complainants

The great majority of complainants were male (81.6%); female complainants comprised 18.4% of the total. Complainants tended to be young with over two-thirds of them 35 years of age or under: 37% were 25 or under while 31.4% were 26 to 35 years of age. The full list of age categories of complainants may be found in Table 8.

Most of the complainants (82.6%) lived in unsubsidized housing while 6.2% lived in subsidized dwellings. This data may be found in Table 9.

24.5% of the complainants were allegedly intoxicated or on drugs at the time of the incident: 22.7% were alleged to be intoxicated while 1.8% were alleged to be on drugs.

7. Types of Complaint Allegations

The average number of allegations per complainant was 1.9. 77.5% of the cases contained one (39.2%) or two (38.3%) complaint allegations. Three, four or five complaint allegations were made by 18.1%, 3.9% and 0.5% of the complainants respectively.

The most common type of allegation lodged against a police officer was assault. Just under 50% of the complainants filed a complaint of assault against a police officer: 37.8% complained of common assault while 9.9% complained of assault causing bodily harm. The second most frequent complaint was that of verbal abuse/incivility with 47.8% of the complainants filing this type of complaint. The following four types of complaints also appeared with some regularity: harassment/oppressive conduct/threats 30.2%;

TABLE 8

AGE OF COMPLAINANTS

	No.	%
UNDER 16 YEARS	8	1.5
16 TO 17 YEARS	20	3.8
18 TO 25 YEARS	166	31.6
26 TO 35 YEARS	165	31.4
36 TO 45 YEARS	100	19.0
46 TO 55 YEARS	46	8.8
56 TO 65 YEARS	16	3.0
OVER 65 YEARS	4	0.8
TOTAL	525	100.0

TABLE 9

RESIDENCE OF COMPLAINANTS

	No.	%
UNSUBSIDIZED SINGLE/MULTIPLE DWELLING	334	57.6
UNSUBSIDIZED HIGHRISE	145	25.0
	479	82.6
SUBSIDIZED SINGLE/MULTIPLE DWELLING	19	3.3
SUBSIDIZED HIGHRISE	17	2.9
	36	6.2
OTHER	65	11.2
TOTAL	580	100.0

TABLE 10

TYPES OF COMPLAINT ALLEGATIONS FILED

	No.	%
ASSAULT	290	47.7
COMMON ASSAULT	230	37.8
ASSAULT BODILY HARM	60	9.9
VERBAL ABUSE/INCIVILITY	291	47.8
HARASSMENT/OPPRESSIVE CONDUCT/THREAT	184	30.2
IRREGULARITY IN PROCEDURE	101	16.6
NEGLECT OF DUTY	66	10.8
MISHANDLING OR DAMAGE TO PROPERTY	52	8.5
UNLAWFUL SEARCH	34	5.6
UNLAWFUL ARREST	28	4.6
TRAFFIC IRREGULARITY/IMPROPER EXERCISE OF DISCRETION	22	3.6
DECEIT	11	1.8
TRAFFIC IRREGULARITY BY OFFICER	10	1.6
INADEQUATE POLICE SERVICE	8	1.3
IRREGULARITY RE: EVIDENCE	5	0.8
CORRUPTION/THEFT/FRAUD	5	0.8
SEXUAL HARASSMENT	4	0.7
BREACH OF CONFIDENCE	2	0.3
OTHER	4	0.7
TOTAL	1117	183.4

NOTE: The total percentage of complaint allegations exceeds 100% due to the fact that some complainants lodged more than one allegation. The percentages reported above reflect the percentage of complainants who lodged each type of complaint allegation.

irregularity in procedure 16.6%; neglect of duty 10.8%; mishandling of property 8.5%; unlawful search 5.6% and unlawful arrest 4.6%. The complete list of types of complaints and the number of complainants who complained of each type is presented in Table 10.

8. Minority Aspect of Complaints

An aspect of the complaint, as seen by the complainant, was some form of racially derogatory comment in 7.7% of the cases and harassment by police of homosexuals in 1.0% of the cases. Accordingly, the large majority of complaints filed (91.3%) did not arise from racial or homosexual causes as perceived by the complainant.

9. Precipitating Factors

The incident that actually led to or precipitated the complaint was also recorded in the Complaint Recording Form. The most common type of incident was a traffic violation: 37.0% of all complaints arose out of police officers stopping people for traffic violations. The second most frequent precipitating factor was a criminal investigation of a complainant by the police (26.1%). The only other factor which occurred with some frequency was an incident that occurred during the time of arrest: 15.4% of the complaints resulted from an incident that occurred during the arrest of the complainant. There appeared to be no apparent precipitating factor in 8.2% of the cases. The full list of precipitating factors is presented in Table 11 and presented graphically in the corresponding figure.

A description of each type of precipitating factor may be found in Appendix "G".

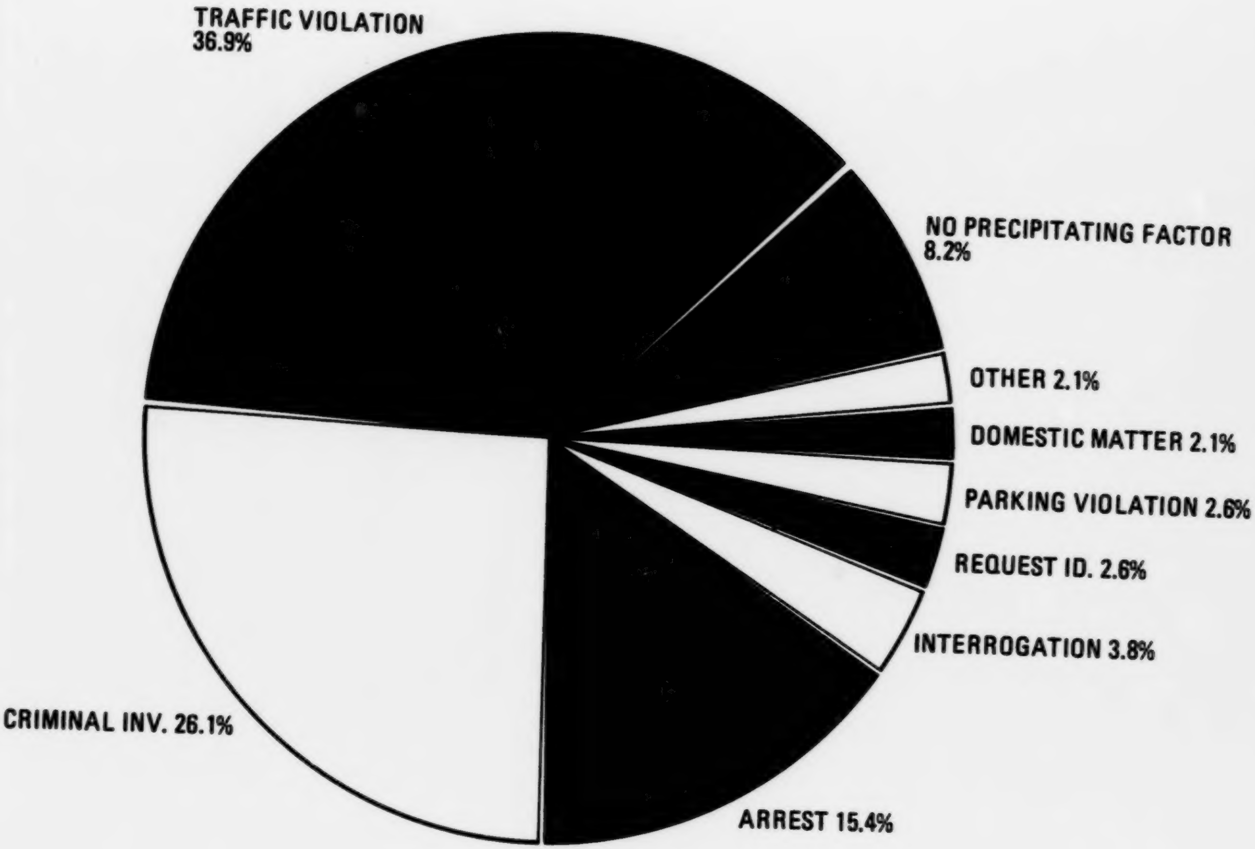
TABLE 11

FACTORS PRECIPITATING COMPLAINTS

	No.	%
TRAFFIC VIOLATION	225	37.0
CRIMINAL INVESTIGATION	159	26.1
ARREST	94	15.4
INTERROGATION	23	3.8
REQUEST IDENTIFICATION	16	2.6
PARKING VIOLATION	16	2.6
DOMESTIC MATTER	13	2.1
OTHER	13	2.1
NO APPARENT PRECIPITATING FACTOR	50	8.2
TOTAL	609	100.0

FACTORS PRECIPITATING COMPLAINTS

TABLE 11



10. Alleged Injuries and Damages

There were no injuries alleged in 65.9% of the complaints filed. For the remainder, the most frequent type of injury alleged was cuts or bruises: 30.6% of the complainants reported this type of injury; 5.0% complained of injuries or pain inflicted by handcuffs; 2.5% of the complainants reported internal injuries. The full list of alleged injuries to complainants may be found in Table 12.

The severity of the injuries was also recorded with respect to those complainants who had reported having injuries: 43% of the injuries were minor in nature (mild bruises, small lacerations - i.e., scratches); 53% of the injuries were moderate (extensive bruising, cuts, swelling), while 4% of the injuries were serious in nature (very extensive bruising, fractures, severe lacerations, severe swelling, internal injuries).*

Complainants attended a hospital in 36.7% of the cases with alleged injuries.

Of the cases that alleged assault, 12.8% made mention of a baton being used in the assault allegation. Batons were allegedly used in a variety of ways: the police officer held the baton to the complainant's neck, jabbed, poked or hit the complainant with the baton.

The incidence of property damage claimed by complainants was low. Only 7.7% of the complaints involved allegations

---

*The degree of severity for the injuries reported was a subjective judgment made on the part of the researcher coding this information.

TABLE 12

INJURIES TO COMPLAINANTS

	No.	%
CUTS, BRUISES	185	30.6
HANDCUFF INJURIES	30	5.0
INTERNAL INJURIES	15	2.5
GENITALIA INJURIES	10	1.7
FRACTURES	9	1.5
TEETH	9	1.5
OTHER	3	0.5
NO INJURIES	398	65.9
TOTAL	659	109.2

NOTE: The total number of injuries exceeds 100% due to the fact that a complainant could have suffered from more than one injury.

of property damage: in 5.3% of the complaints, damage was minor in nature (damage estimated under $75 - small scratches, dents, etc.), while in 2.1% of the complaints, damage was of moderate severity (damage estimated under $150 - broken windows, damaged doors, etc.). Only 0.3% of the cases involved serious property damage estimated at a value greater than $150.*

11. Photographs Taken

In cases of injury or property damage, no photographs were taken in 58.3% of the cases. This may be accounted for by the fact that in many cases the injuries were no longer visible at the time of the complaint. In addition, where the injury was internal, and therefore not visible, no photographs would be taken. Photographs were taken by the police identification unit in 34.8% of the cases, by our Office in 4.9% of the cases and by the complainant or others in 2% of the cases.

It is interesting to note that the number of photographs taken increased by 15% from the pre-proclamation period. This may be attributed to the fact that the new investigative format under the Act requires the police to photograph any alleged injury or alleged damage at the earliest possible opportunity. The increase of 15% may be attributed primarily to an increase in the number of photographs taken by the police identification unit which rose from 20.1% during the pre-proclamation period to the present 34.8%. This increase points to the success of the new investigative format referred to earlier. The data on photographs taken may be found in Table 13.

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*The degree of severity for the property damage noted was a subjective judgment made on the part of the researcher coding this information.

TABLE 13

PHOTOGRAPHS TAKEN OF ALLEGED INJURIES

	No.	%
BY POLICE IDENTIFICATION UNIT	71	34.8
BY PUBLIC COMPLAINTS COMMISSIONER	10	4.9
BY OTHERS	3	1.5
BY COMPLAINANT	1	0.5
NO PHOTOGRAPHS TAKEN	119	58.3
TOTAL	204	100.0

C. DISPOSITIONS OF COMPLAINTS

The dispositions of the complaints in our sample are presented over several tables. The overall dispositions are presented in Table 14. Just over one-half of our sample, 55.2% of the cases, were formally resolved after a complete investigation. This means that a decision was made by the Chief's designate regarding the complaint. 36.8% of the complaints were informally resolved to the mutual satisfaction of both parties. 7.9% of the cases were withdrawn, while 0.2% were not proceeded with due to the fact that the case went to trial (See "Remaining Case", page 54).

A more detailed breakdown of the dispositions is presented in Table 15: this consists of an analysis of the entire sample with respect to the reasons for the dispositions given. Tables 15A and 15B deal separately with the dispositions given for formal and informal resolutions respectively.

1. Formal Resolutions

336 of the cases in our sample were resolved formally. In 16 of the cases (4.8%) the Chief's designate took some action: in 14 (4.2%) of the cases, the officer was counselled and/or cautioned whereas in 2 (0.6%) of the cases, the officer was advised or spoken to. According to the police force, a "caution" is a form of discipline where the officer is warned that further misconduct may result in a charge pursuant to the Police Act. A "counsel" is used where the actions of the officer involve relatively minor infractions committed unintentionally or through inexperience. It means that a superior officer counsels the subject officer

TABLE 14

DISPOSITION OF COMPLAINTS

	No.	%
FORMAL RESOLUTIONS	336	55.2
INFORMAL RESOLUTIONS	224	36.8
COMPLAINT WITHDRAWN	48	7.9
OTHER	1	0.2
TOTAL	609	100.0

TABLE 15

DETAILED ANALYSIS OF DISPOSITIONS OF COMPLAINTS

	No.	%
FORMAL RESOLUTIONS		
No action warranted due to:		
Insufficient evidence to prove allegation	208	34.2
Officer's statement verified by independent witness/corroborating evidence	75	12.3
Officer acted lawfully	37	6.1
Officer counselled and/or cautioned	14	2.3
Officer advised/spoken to by superiors	2	0.3
TOTAL FORMAL RESOLUTIONS	336	55.2
INFORMAL RESOLUTIONS		
Parties signified agreement by signature; no apparent reason for agreement	67	11.0
Officer admitted allegation/apologized or explained actions to satisfaction of complainant	66	10.8
Complainant content to make police force aware of complaint	43	7.0
Officer advised/spoken to by superiors	23	3.8
No independent evidence to substantiate complaint	12	2.0
Complainant acknowledged he may have been mistaken about alleged misconduct	7	1.1
Officer counselled and/or cautioned	6	1.0
TOTAL INFORMAL RESOLUTIONS	224	36.8
COMPLAINTS WITHDRAWN	48	7.9
OTHER	1	0.2
TOTAL DISPOSITIONS	609	100.0

with a view to helping him improve his performance. Both are forms of discipline and are recorded in the officer's file which is retained at Headquarters.

An officer would be "advised" or "spoken to" where the conduct is minimally objectionable and no notation of it is made in the officer's file at Headquarters.

The primary reason for a finding of no action warranted was insufficient evidence to prove or disprove the allegation. This was the reason given in 61.9% of the formal resolutions. These cases generally involved an allegation by the complainant and a denial of that allegation by the police officer with no evidence to support either version of the incident. This does not mean that the Chief allotted more weight to the police officer's version of the events nor that he doubted the word or motives of either the complainant or the police officer. What it does mean is that the Chief was unable to take action without sufficient evidence.

An example of a case where the Chief's designate finds that no action is warranted due to insufficient evidence is as follows:

> *The complainant was waiting for a bus when he was approached by two police officers. It was alleged that the officers searched the complainant without an explanation and told him to "shut-up" or he would be assaulted.*
>
> *The Bureau's investigator interviewed the complainant and the two officers and reviewed a*

> *tape recording of a radio communication transmitted to the scout car. The investigator found that the officers had responded to a call regarding a hold-up that had just occurred. The officers had a partial description of a suspect who was on foot. The complainant was the only pedestrian in the area and fit the description of the suspect. When the officers approached the complainant his hands were in his jacket pockets, which were bulging. Shortly thereafter a more detailed description was provided by radio and the officers were able to eliminate the complainant as a suspect.*
>
> *The complainant was given an explanation of what had happened and was released. The officers denied threatening the complainant and there was no independent evidence to support that allegation.*
>
> *The Chief's designate concluded that no action was warranted in this case.*

Other reasons for a finding of no action warranted were that the officer's position had been verified independently by other witnesses (23.3%) and that the officer acted lawfully (11.0%). This data may be found in Table 15A.

An example of a case where the Chief's designate found that no action was warranted because the independent evidence corroborates the officer's statement is:

> *The complainant alleged that while being investigated by plain clothes officers, an officer jumped across the table and struck him several times in the face, as a result of which the area above his right eyebrow was scarred and bruised. The officers present at the time denied that the complainant was assaulted.*
>
> *A doctor who saw the complainant shortly after the alleged incident stated that there had been no trauma to the complainant's right eye.*
>
> *Photographs taken of the complainant shortly after the incident and a photograph taken at the Don Jail following the incident, were examined. None of the photographs revealed any recent injury to the complainant's right eye.*

TABLE 15A

ANALYSIS OF FORMAL RESOLUTIONS

	No.	%
No action warranted due to:		
Insufficient evidence to prove allegation	208	61.9
Officer's statement verified by independent witness/corroborating evidence	75	22.3
Officer acted lawfully	37	11.0
Officer counselled and/or cautioned	14	4.2
Officer advised/spoken to by superiors	2	0.6
TOTAL FORMAL RESOLUTIONS	336	100.0

> *Accordingly, the evidence was consistent with the officer's denial of any assault and the Chief's designate found that no action was warranted.*

An example of a case where the Chief's designate found that no action was warranted because the officer acted lawfully is:

> *The complaint was that the officers seized the complainant's rifle and refused to return it to him.*
>
> *An article appeared in a Toronto newspaper in which the complainant was alleged to have stated that he would defend his home with a gun, if necessary, in the event that local youths returned to his property.*
>
> *Accordingly, the police attended at the complainant's residence to discuss the matter. During this discussion, the complainant confirmed that he would use his weapon. The police requested that the complainant turn his gun over to them. The complainant voluntarily complied with this request and the officers took possession of the rifle and gave the complainant a receipt. An application was then brought in court pursuant to Section 98(4) of the Criminal Code for an order prohibiting the complainant from possessing any firearms. The complainant appeared in court at which time it was ordered that he be prohibited from having a weapon in his possession for 18 months. In view of the foregoing, the Chief's designate decided that no action was warranted because the officers acted lawfully.*

An example of a case where the Chief's designate counselled and/or cautioned an officer is as follows:

> *The complainant was operating his motor vehicle with his wife in the passenger seat when he was stopped by the police. The complainant stated that he willingly entered the scout car, but did not pull the door completely shut. The officer wanted the door closed all the way. The complainant alleged that the officer swore at him and hit him in the face.*

> *The Bureau's investigation included obtaining statements from the complainant, his wife, three independent witnesses, the subject officer, a second officer present at the complainant's arrest and the viewing officer at the station.*
>
> *As a result of the incident in the cruiser, the complainant refused to speak to the officers and was, therefore, arrested for failure to identify himself. One of the independent witnesses said he saw the officer assault the complainant. None of the other witnesses were able to corroborate this and the officer denied it. No physical injury resulted. After reviewing the investigation, the Chief's designate decided that there was some substance to the complaint and disciplined the officer by administering a caution to the officer involved.*

An example of a case where the Chief's designate decided to advise an officer is:

> *The complainant and his wife were at the home of a friend when they heard a woman scream, "leave me alone, Oh God, leave me alone". They called the police and alleged that the officer who answered the telephone tried to dissuade them from reporting the incident, it being the officer's suggestion that it was a domestic dispute.*
>
> *The Bureau investigation involved obtaining the original tape of the telephone conversation between the officer and the complainant as well as interviewing the subject officer. The designate of the Chief of Police found that the transcript did not indicate that the officer had actively tried to dissuade the complainant from reporting the incident. However, it did indicate that the officer unnecessarily extended the conversation.*
>
> *This matter was brought to the officer's attention and the officer was advised by the Chief's designate how to deal with these matters in the future.*

It must be remembered that in each case the Chief of Police or his designate is required to give written reasons for his decision to the complainant, the subject officer and our Office. The complainant has a right to request a review of the Chief's decision if he is not satisfied with either the decision or the reasons. During the calendar year ending December 20, 1982, 55 requests for review were made. 17 of those cases were closed within the year and are dealt with separately in this report. (See Request for Review, page 55).

The remaining 38 request for review cases which were still open on December 20, 1982, will be included in next year's report.

2. Informal Resolution

In 224 of the cases in our sample the complaints were resolved informally to the mutual satisfaction of the parties. Extensive work was done during the year by the Bureau and our Office in order to refine the manner in which informal resolutions were obtained and recorded.

Prior to the new legislation, an informal resolution was simply recorded by the complainant signing a form indicating that the results of the investigation were explained to him and that he was satisfied with the investigation that was conducted. The form contained no details of the actual investigation nor any indication of the manner in which the complaint was resolved. It was not necessary for the subject officer to sign the form. As a result, the system was open to criticism because it did not preclude the possibility of a complainant signing the form without knowing the officer's response to his complaint or the nature and extent of the investigation that was conducted.

Under our legislation, the person in charge of the Bureau is required to consider whether a complaint can be resolved informally. In addition, complaints may be resolved informally by a staff sergeant at a police station or by the Public Complaints Commissioner. Complaints can be resolved informally prior to, during or after completion of the investigation. However, a complaint may only be resolved informally if both the complainant and the subject officer agree. Furthermore, they must signify their agreement and satisfaction with the informal resolution by signing the specially designed form. (See Appendix "H" for Record of Informal Resolution).

The manner in which the complaint is resolved must also be recorded. The form allows for a detailed explanation of the investigation conducted, including the officer's response, as well as an explanation of the manner in which the complaint was resolved. (See Appendix "I" for a mock sample of an informal resolution).

All informal resolutions are now reviewed by the Commissioner. The system allows for public accountability through the monitoring conducted by the Commissioner. While not recorded statistically, there were instances where the Commissioner returned informal resolutions to the Bureau requesting additional information. The first year was a learning process and we are continuing to work to refine the procedure.

3. Analysis of Informal Resolutions

We analyzed the 224 informal resolutions in an attempt to discover the reasons why the complainants agreed to this method of resolution. This data may be found in Table 15B.

Generally speaking, complaints that were resolved informally were simpler in nature in that they involved fewer allegations of misconduct. Formally resolved complaints contained 2.04 allegations of misconduct per complaint whereas informally resolved complaints contained 1.63 allegations of misconduct per complaint.

In 66 of the informal resolutions (29.5%) the officer either admitted the facts alleged, apologised or explained his actions to the satisfaction of the complainant.

An example of this type of admission by an officer is as follows:

> The complainant was the general manager of a restaurant. The two officers entered the restaurant just after 1:30 a.m. and told the complainant that all beer and liquor should be removed by 1:30 a.m.
>
> The complainant tried to explain that a change in the Liquor Licence Act gave him until 1:45 a.m. to remove beer and liquor but the officers would not listen. They proceeded to take names and seized beer, telling the complainant that charges would be laid.
>
> The officers admitted that the complainant was right and they were wrong. They found this out when they returned to the police station. No charges were laid against the complainant and the following is stated on the Record of Informal Resolution:
>
> > "The law in regard to closing hours has been brought to the officers' attention and there should be no repetition of this type of mistake."

TABLE 15B

ANALYSIS OF INFORMAL RESOLUTIONS

	No.	%
Parties signified agreement by signature; no apparent reason for agreement	67	29.9
Officer admitted allegation/apologized or explained actions to satisfaction of complainant	66	29.5
Complainant content to make police force aware of complaint	43	19.2
Officer advised/spoken to by superiors	23	10.3
No independent evidence to substantiate complaint	12	5.3
Complainant acknowledged he may have been mistaken about alleged misconduct	7	3.1
Officer counselled and/or cautioned	6	2.7
TOTAL INFORMAL RESOLUTIONS	224	100.0

An example of an apology by an officer is as follows:

> *The complainant was a cab driver who was parked behind a cabstand waiting for other cars to move ahead so that she could park within the boundaries of the cabstand. The police officer honked his horn for her to move.*
>
> *The complainant stated that just as the officer honked his horn, two cars moved away which enabled her to park within the boundaries of the cabstand. She stated that the officer gave her a summons and was screaming at her and told her that he would ticket her every time he saw her, which she considered a personal threat.*
>
> *When the officer was interviewed he stated that there were nine cabs in the vicinity of the cabstand which only allowed for six. He waved the last three cabs away. Two moved, but the complainant did not. The officer denied screaming at the complainant or threatening her.*
>
> *During the investigation, the officer indicated that while he thought he had not done anything improper, he apologized.*
>
> *The complainant accepted his apology and was content that the complaint be resolved informally. Both parties signed the informal resolution shortly thereafter.*

In 43 of the cases (19.2%) the complainant was content to simply have the matter brought to the attention of the police force. An example of this is as follows:

> *The complainant was stopped by an officer for a traffic violation. The officer checked the complainant's name and learned that she was driving while her licence was under suspension. The complainant alleged that the officer held her by her arms, shook her and then placed her in the back seat of the police car. She also alleged that she requested to use a toilet and was refused by the officer.*
>
> *When the complainant was interviewed she stated that she only wanted to bring the actions of the officer to the attention of the force and wished to*

> *have the matter resolved informally.*
>
> *The investigator subsequently interviewed the subject officer and the officer stated that the complainant had been treated properly and she was allowed to use the toilet facilities at a service station nearby.*
>
> *However, when the officer was advised that the complainant wished to resolve the matter informally and was satisfied to simply bring the matter to the attention of the police force, he agreed to this method of disposition.*
>
> *In the result, both parties signed the informal resolution indicating their satisfaction and the matter was resolved informally.*

In 23 of the cases (10.3%) the record of informal resolution indicated that the officer was spoken to or advised by his superior. An example of this is as follows:

> *The complainant called the police with regard to an automobile parked close to her property. She was concerned about prior instances of break and enter in the vicinity.*
>
> *After forty-five minutes the police had not arrived and the complainant called back. The officer to whom she spoke minimized her fears and in the course of the telephone conversation told her not to be "stupid". The complainant hung up in anger.*
>
> *Investigation by the Bureau revealed that at the relevant time the police units were very busy and that a car was sent, as soon as possible. The subject officer was spoken to regarding his handling of the call and admitted that his behaviour was unjustified.*

In 6 of the cases (2.7%) the Record of Informal Resolution indicated that the officer was counselled and/or cautioned. An example of a case where an officer was counselled is as follows:

> *The complainant objected to the officer's attitude in the course of issuing a ticket for a traffic violation.*
>
> *The Bureau investigators took a statement from the complainant and also discussed the incident with the subject officer. As a result, the officer was counselled and constructive suggestions were made to him regarding the manner in which he should deal with the public. Both parties signified their satisfaction with this result by signing an informal resolution.*

In 7 of the cases (3.1%) the complainant acknowledged that he may have been mistaken regarding the allegation of misconduct. An example of this is as follows:

> *The complainant was operating a vehicle on Highway 400. The complainant stated that he was driving 65 M.P.H. He was stopped by police and asked for his licence, ownership and proof of insurance. He asked the officer why he was being stopped and the officer told him that he was speeding. The complainant refused to give the officer his licence, swore at the officer and told him that he could arrest him if he wished.*
>
> *The complainant said that the officer returned to his police cruiser, took off his hat, picked up his baton, swore at him and moved his baton across the complainant's chest and hit the complainant's car. No damage resulted. The complainant admitted that his own attitude was "not the greatest, including my language".*
>
> *During the investigation of this complaint the complainant admitted that he thought if he complained, it might result in the withdrawal of the speeding ticket. He further stated that he was not struck by the baton and was uncertain that the baton hit his car.*
>
> *The complainant stated that he only complained because his cousin, who is also his boss, told him to do so.*

In 12 of the cases (5.3%) where no independent evidence was available, the complainant was satisfied to resolve the complaint informally. An example of this is as follows:

> *The complainant was driving on the Don Valley Parkway when he noticed a police car with a flashing light pull over another car. The complainant stopped as well. The complainant was issued a summons for not wearing a seatbelt. He did not receive the summons at the scene, but later when it was served personally at his home. The complainant felt that the only reason he was given a summons was that he had approached the scene where the officer had pulled over the other vehicle. The complainant also stated that the officer was tailgating the other vehicle.*
>
> *The officer agreed with the complainant's version of his driving, however, he stated that he had control of his vehicle at all times and he was in the process of pulling over a driver who was charged with impaired driving. The officer denied using foul language but admits yelling at the complainant because they were on a highway and the complainant was approximately 200 feet away. The officer stated that the reason he did not issue the complainant with an offence notice at the time was because he had a man under arrest and he was required to take that man for a breathalizer test, forthwith.*
>
> *There does not appear to be a sufficient reason on the informal resolution form for the complainant's satisfaction. The statement that does appear indicates that the complainant is aware that the complaint involves his word alone against the officer's word and accordingly he was satisfied to resolve the matter informally.*

This is an area that has caused us some concern. There have been a number of discussions with the Bureau and it is now generally agreed that the lack of independent evidence is not, of itself, a sufficient reason to resolve the complaint informally. It is not the function of the investigator to draw conclusions. This is an adjudicative function which must be performed by the Chief or his designate after a review of the complete investigation.

As the year progressed, the performance in this regard improved.

Finally, there were 67 cases (29.9%) where we could not determine the reason for agreement to an informal resolution. It is possible that the complainant was satisfied to bring the matter to the attention of the police force. On the other hand, it is possible that the complainant was simply not interested in pursuing the matter through the formal stages and, therefore, satisfied with an informal resolution.

In our continuing discussions with the Bureau we make every effort to ensure that informal resolutions contain sufficient information to enable us to determine the reason the parties agreed to resolve the matter.

4. Withdrawals

48 of the complaints in the sample (7.9%) were withdrawn by the complainant. A high percentage of withdrawals could lead to an inference that pressure was being brought to bear on complainants to withdraw. We were gratified to see that this figure was so low, especially when compared to the experience in other jurisdictions. For example, in its Triennial Review Report of 1980, the English Police Complaints Board reported that in 1978, 45% of all complaints were withdrawn. The English system, which is presently being reviewed, did not contain an informal resolution procedure. Accordingly, the high percentage of withdrawals may also contain cases resolved informally. Nevertheless,

this figure gave the English cause for concern.

An analysis of the withdrawals in our jurisdiction indicates that 60% of these complaints were filed at the police station, 21% with the Office of the Public Complaints Commissioner and 15% at the Bureau. These figures have little significance as they correspond roughly to the pattern of filing of all complaints. More significant are the reasons given for withdrawal.

31.3% of withdrawals may be attributed to an admission of error on the part of the complainant. This is usually explained by the complainant being so intoxicated at the time that he had no recollection of what happened. In another 31.3% of the cases the reasons for the complainant's withdrawal were not known. 16.6% of the complainants who withdrew their complaint stated their desire to merely call attention to the incident or to put it on the record rather than follow through with an investigation. The remaining cases (20.8%) did not fit into any discernible category.

21% of the complainants who withdrew their complaints retained lawyers. It may be that the withdrawal of some complaints was somehow connected to the plea bargaining process. This may be surmised, but cannot be substantiated by statistics.

5. Remaining Case

One complaint (0.2%) was not proceeded with by the police due to the fact that the police officers in question were charged criminally by the complainant and the charge was before the courts. This number decreased from the previous 2.8% found in the pre-proclamation period. The decrease may be attributed to the efforts of our Office.

We felt that the investigation of a complaint should generally continue even though a criminal charge may be outstanding. (Our efforts in this regard are recorded in "Criminal Charges Related to Complaints, page 83 of this Report). This is now being done, but there still may be situations where the investigation of a complaint could jeopardize an outstanding criminal charge. In those cases the investigation may be suspended until the criminal charge is completed.

D. REQUESTS FOR REVIEW

With respect to the 17 cases in which reviews were completed and files closed, the Commissioner decided that no further action was warranted in 13 of the cases. In two of the cases the complaints were withdrawn. In one case the Commissioner resolved the matter informally. In one case the Commissioner substantially agreed with the complainant but did not feel that it was in the public interest to order a Police Complaints Board hearing. (An example of a "Report" written after the Commissioner's review may be found in Appendix "J"). This data may be found in Table 16. The above accounts for the 17 cases that were closed during the year.

There were 4 other cases where, following a review, the Commissioner ordered a Police Complaints Board hearing. None of those hearings were completed by December 20, 1982, but one that was completed in early 1983 is referred to at page 101, under the heading "Police Complaints Board Hearings".

The following are some examples of reviews by the Public Complaints Commissioner.

TABLE 16

OUTCOME OF REVIEW OF COMPLAINT BY PUBLIC COMPLAINTS COMMISSIONER

	No.	%
NO ACTION WARRANTED	13	76.5
CASE WITHDRAWN	2	11.8
INFORMAL RESOLUTION	1	5.9
NOT IN PUBLIC INTEREST TO CONVENE BOARD HEARING	1	5.9
TOTAL	17	100.0

NOTE: In the first year of operation four Board hearings were ordered. Since these cases were not disposed of within the year, they are not included in this statistical analysis.

CASE #1

The complainant stated that following his arrest in August, 1981, a police officer took $77 from him. He was not given a receipt and his money was not returned. He complained that while in the police station a police officer hit him several times in the face, scarring and bruising him in the right eye area and causing double vision.

The initial investigation of this complaint conducted by the Bureau, resulted in a finding that no action was warranted against the officers involved. The missing money was not located.

Our review into this matter and an examination of the medical evidence available showed that the alleged injury to the complainant's right eye was an old injury and could not, therefore, be caused in the manner in which the complainant outlined.

As a result of further investigation by our Office, we were able to determine that the complainant had not been issued a receipt for the money taken from him due to a clerical error. We learned that the money had been deposited with the Inmate Trust Clerk at the Don Jail. The result was that the $77 was located and returned to the complainant.

In view of the fact that the money was returned and the clerical error corrected, the Commissioner decided that no further action was warranted.

CASE #2

In this case, the complainant did not notice a police officer who was directing traffic. The complainant alleged that as he drove past the officer, the officer hit his car with a flashlight. The complainant also alleged that the officer refused to identify himself when asked to do so and that the officer uttered racial slurs.

This complaint was investigated by the Bureau which resulted in a decision that no action was warranted against the officer involved.

During the course of our review, the Commissioner decided that an informal resolution might be possible. As a result, the Commissioner met with both the subject officer and the complainant and the matter was concluded with the officer apologizing to the complainant for failing to properly identify himself. This apology was acceptable to the complainant.

The complainant also accepted the officer's explanation that the flashlight slipped out of the officer's hand and was not directed towards the car.

With respect to the allegation of the racial slur made by the officer, the complainant could not specify what was said and he was satisfied that the matter had been brought to the officer's attention through the investigation and review of his complaint. Therefore, the Commissioner was able to resolve the matter informally with both the officer and the complainant signifying their satisfaction.

CASE #3

In this case, the complainant called the police to advise that he had been threatened by his neighbour for singing in his own house. While speaking to the subject officer on the telephone, the complainant was advised about existing noise by-laws. When the complainant requested more detailed information, the officer is alleged to have responded in an abusive manner and specifically to have told the complainant to "shut-up".

Although the Chief's designate indicated that no further action was warranted, in fact, both the subject officer and the officer in charge of communications were advised to refrain from further use of the term "shut-up".

When our investigator reviewed the tape recording of the conversation between the complainant and the subject officer, it was noted that the officer also very abruptly raised his voice. This aspect of the officer's conduct had not been dealt with and in the Commissioner's view might have constituted verbal abuse.

The Commissioner agreed with the complainant's concern but concluded that because the officer had already been advised and because the matter had been brought to the attention of his superiors, it would not be in the public interest to order a Police Complaints Board hearing.

CASE #4

The complainant in this case was a passenger in a motor vehicle that was stopped by a police officer. She complained that when the driver of the vehicle asked the officer for information, the officer responded rudely.

As a result of the investigation by the Bureau, the officer was counselled by the Deputy Chief of Police regarding his manner when speaking to the public.

The complainant was not satisfied with this resolution and asked our Office to review the matter.

When our investigator interviewed the complainant, it was explained to her that when the Chief's designate counsels an officer it is a disciplinary action. It is done in writing and forms part of the police officer's file. When the complainant realized this, she stated that she now understood the action taken against the officer and expressed complete satisfaction with the decision.

CASE #5

In this case the complainant was stopped by a police officer for speeding. The officer decided that the complainant had been drinking and asked him to provide a breath sample. While in the front seat of the police vehicle, the complainant and the officer engaged in a struggle which continued outside the vehicle. The wife of the complainant was also involved. The complainant alleged that he was further assaulted by the police officer at the police station.

Investigation revealed injuries to the complainant and his wife as well as to the police officer.

> *The Chief's designate decided that no action was warranted against the officer as the injuries to the complainants were consistent with the officer using no more force than was necessary to control the situation and there were no independent witnesses to support the allegations.*
>
> *The complainants asked for a review of that decision and after further investigation, including additional forensic analysis, the Commissioner decided that it was in the public interest to hold a hearing before the Police Complaints Board. As of the date of writing, the Board hearing has been concluded except for the decision of the Board which will be reported in the next Annual Report.*

E. LENGTH OF TIME BETWEEN VARIOUS STAGES IN THE COMPLAINTS PROCESS

1. Time from Date Complaint Filed to Date Copy Received at our Office

The number of days from the date a complaint was filed at the Police Complaints Bureau or police station to the date our Office received a copy of the complaint was recorded. In 21.8% of the cases a copy of the complaint was received at our Office on the same day as the date it was filed. Another 32.5% were received within one or two days of filing, while 28.6% were received within three or four days. In total, copies of the vast majority of complaints (98.2%) were received within a week of filing. The average number of days from the date of filing to the date a copy of the complaint was received at our Office was 2.7 days. The full list of days may be found in Table 17.

Pursuant to s. 6(3) of the Act, where a complaint is recorded at a police station, the person recording the complaint shall forward, forthwith, to the Bureau and to our Office a copy of the complaint. In one case, our Office did not receive a copy of the complaint until 31

TABLE 17

TIME FROM DATE COMPLAINT FILED TO DATE COPY RECEIVED BY P.C.C.

	No.	%
SAME DAY	123	21.8
1-2 DAYS	183	32.5
3-4 DAYS	161	28.6
5-7 DAYS	86	15.3
8-15 DAYS	9	1.6
31 DAYS	1	0.2
TOTAL	563	100.0

$\overline{X}$ DAYS = 2.7

days after the complaint was recorded. This lapse may be explained by the fact that this case was informally resolved by the Bureau prior to any investigation commencing.

2. Time from Complaint Filing to Interim Report

For each complaint that is filed, an interim report on the investigation of that complaint should be completed and forwarded to the complainant, the subject officer and to our Office within 30 days of the date of filing. For a number of complaints, the entire investigation was completed within 30 days. Thus, no interim report would be required since the final report served the same purpose. For those cases in which an interim report was completed (224), the average number of days from the date a complaint was filed to the date of the interim report was 29.5 days. Thus, the processing of a complaint by the police with respect to the completion of an interim report generally fell within the prescribed period of 30 days. This data may be found in Table 18. Most of the cases wherein the 30 day period was exceeded were cases where the complaint originated outside the Bureau and time was spent in transmitting the complaint.

In only three cases were there significant delays between the receipt of a complaint and the filing of the first interim report by the Bureau.

In two of these cases, both of which refer to the same incident, the interval between the filing of the complaint and the date of the interim report was 43 days. In both cases, the Bureau simply did not receive the complaint form until two weeks after the date of the occurrence. When this is taken into account, the interval is within the 30

TABLE 18

TIME FROM COMPLAINT FILING TO INTERIM REPORT

	No.	%
13-21 DAYS	6	2.7
22-30 DAYS	141	63.0
31-40 DAYS	74	33.0
41-79 DAYS	3	1.3
TOTAL	224	100.0

$\overline{X}$ DAYS = 29.5

days stipulated by the Act.

In the third case, 79 days elapsed between filing and the date of the interim report. This complainant had laid a criminal charge against the police officer concerned.

As previously explained, the Bureau formerly took the position that no further investigation would be conducted while a criminal charge was pending. This is no longer the case as investigations are now continued subject to withholding the contents of witnesses' statements that might impair or prejudice the trial. In this particular case the interim report was held up while the issue was being discussed.

3. Time from Complaint Filing to Final Report and Chief's Decision

The total number of days from the date a complaint was filed to the date of the final report* concerning the outcome of that complaint was also recorded. In 2.3% of the cases the final report was completed on the same day as the day the complaint was filed. This occurred in cases where an informal resolution was achieved immediately at the time of the filing of the complaint. In 58.3% of the cases, a final report was completed within 30 days of the date of filing. Another 29% of the cases were completed with a final report produced within 60 days of filing. Thus, a final report was produced in 87.2% of the cases within two months of filing. In 96.1% of the cases a final report was completed within 90 days of filing. The average number of days from the date a complaint was filed to the date a final report was completed was 34.7 days. This data may be found in Table 19.

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*Final report in this section refers to either a final investigative report of the Bureau or the Record of Informal Resolution.

TABLE 19

TIME FROM COMPLAINT FILING TO FINAL REPORT

	No.	%
SAME DAY	14	2.3
1-14 DAYS	117	19.2
15-30 DAYS	224	36.8
31-60 DAYS	176	28.9
61-90 DAYS	54	8.9
91-222 DAYS	24	3.9
TOTAL	609	100.0

$\overline{X}$ DAYS = 34.7

The number of days from the final report to the date of the Chief's decision averaged 19.9 days. In 34% of the cases the Chief's decision came one week after the final report. In 77% of the cases the Chief's decision was formulated within 30 days of the final report. This data may be found in Table 20.

The total number of days for the above-noted two periods -- from the date the complaint was filed to the date of the Chief's decision, averaged 63.7 days.

4. Time from Chief's Decision to Request for Review

Each complainant is free to request a review of the Chief's decision by our Office. The average number of days from the date of the Chief's decision to the date of the request for review was 21.4 days. The number of days ranged from the same day in one case to a maximum of 82 days in another case. In 76.4% of the cases, requests for review were made within 30 days of the Chief's decision. This data may be found in Table 21.

5. Time from Request for Review to Decision by Public Complaints Commissioner

The time involved from the date of a complainant's request for review to the date of the decision by the Public Complaints Commissioner averaged 106.9 days. 35.3% of the cases were completed within two months of the request for review while another 41.2% were completed within five months of the request. 23.5% of the cases required more than five months to complete. This data may be found in Table 22.

TABLE 20

TIME FROM FINAL REPORT TO CHIEF'S DECISION

	No.	%
SAME DAY	1	0.3
1-7 DAYS	113	33.6
8-21 DAYS	58	17.3
22-30 DAYS	87	25.9
31-60 DAYS	73	21.7
61-79 DAYS	4	1.2
TOTAL	336	100.0

$\bar{X}$ DAYS = 19.9

TABLE 21

TIME FROM CHIEF'S DECISION TO REQUEST FOR REVIEW

	No.	%
SAME DAY	1	5.9
4-8 DAYS	5	29.4
9-14 DAYS	4	23.5
15-30 DAYS	3	17.6
31-66 DAYS	3	17.6
82 DAYS	1	5.9
TOTAL	17	100.0

$\bar{X}$ DAYS = 21.4

TABLE 22

TIME FROM REQUEST FOR REVIEW TO P.C.C. DECISION

	No.	%
39-62 DAYS	6	35.3
66-144 DAYS	7	41.2
166-217 DAYS	4	23.5
TOTAL	17	100.0

$\overline{X}$ DAYS = 106.9

Various factors accounted for the time required to complete our reviews. For example, in some cases witnesses were not readily available to be interviewed. In others, trials were in progress which could provide additional information and were monitored until they concluded. A review usually involves further investigation into the allegations made by the complainant and if the Commissioner decides to take no further action, he must give reasons. These reasons are provided in a written report which is submitted to the complainant and to the subject officer. This report contains a detailed analysis of the complaint and the investigation together with the Commissioner's conclusions. (See Appendix "J").

In addition, in cases where it was appropriate to order a hearing, the review could not be completed until the appointments to the Police Complaints Board were announced in June of 1982.

Now that our system and procedures are in place and the Board has been appointed, we expect the average time required to complete a review will decrease significantly. There will always be cases, however, which demand a considerable amount of time to resolve due to circumstances which will be peculiar to each case.

F. POLICE OFFICERS INVOLVED IN COMPLAINTS

This section consists of a discussion of the police officers that were involved in the complaint allegations filed. 906 police officers were involved in the closed cases for this year. 56 officers could not be identified and were, thus, treated as missing data not included in the total number of police officers. On the average, there were 1.7 police officers involved per complaint filed.

Only one police officer was involved in 55.4% of the cases while two police officers were involved in 32.8%: this accounted for 88.2% of the total. The data on the number of police officers involved per complaint may be found in Table 23.

In 69.8% of the cases the police used their own discretion to intervene. In 30.2% of the cases the police were called, that is, their assistance was requested and a complaint incident subsequently arose out of the situation.

In 60% of the cases the complainants were not in police custody at the time of the complaint incident. In 40% of the cases the complainant was either being taken into custody or was actually in custody at a police station at the time of the complaint incident.

The great majority of police officers (97.8%) were on duty at the time that the complaint incident occurred. Only 2.2% of the officers were off duty during the incident.

1. Rank of Police Officers Involved in Complaints

Very few of the officers involved in complaints were senior officers: 1.8% were staff sergeants while 7.6% were ranked as sergeants. Thus, only 9.4% of the total number of police officers involved in the complaints occupied a rank higher than constable. The majority of the officers complained of were ranked as Police Constable 1 (77.3%). The remaining officers were Constables 2 to 4. This data may be found in Table 24.

TABLE 23

NUMBER OF POLICE OFFICERS INVOLVED PER COMPLAINT

POLICE OFFICERS	No.	%
1	311	55.4
2	184	32.8
3	27	4.8
4	29	5.2
5	4	0.7
6	4	0.7
8	2	0.4
TOTAL	561	100.0

$\bar{X}$ = 1.7 OFFICERS

TABLE 24

RANK OF POLICE OFFICERS INVOLVED IN COMPLAINTS

	No.	%
STAFF SERGEANT	16	1.8
SERGEANT	69	7.6
CONSTABLE 1	700	77.3
CONSTABLE 2	55	6.1
CONSTABLE 3	60	6.6
CONSTABLE 4	6	0.7
TOTAL	906	100.0

2. Years of Service for Police Officers Involved in Complaints

9.2% of the officers involved in complaints had 1 to 2 years of service while 20% had 3 to 5 years of service with the force. The majority, 60.6%, had 6 to 15 years of experience with the force: 48.3% were with the force 6 to 10 years while 12.3% had been with the force 11 to 15 years. The remaining 10.2% had been with the force over 16 years. This data may be found in Table 25.

3. Dispositions for Officers Involved in Complaints

32.5% of the officers involved in complaints entered into informal resolutions. 65.3% of the remaining officers were subject to a complete investigation followed by a decision of the Chief. 6.5% of the officers were either spoken to, advised, counselled and/or cautioned by their superiors, as a result of the complaint. This data is presented in more detail in Table 26.

G. CRIMINAL CHARGES

1. Criminal Charges Against Complainants

It should be noted that no charges of public mischief were laid by the police against any of the complainants in our sample, as a result of filing a complaint. Concern about this had been expressed in public debate over the Act. It was argued that the threat of a public mischief charge was a powerful deterrent to any potential complainant. Fortunately, our experience in the first year has not validated this concern.

TABLE 25

YEARS OF SERVICE FOR OFFICERS NAMED IN COMPLAINTS

	No.	%
UNDER 1 YEAR	7	0.8
1 TO 2 YEARS	76	8.4
3 TO 5 YEARS	180	20.0
6 TO 10 YEARS	435	48.3
11 TO 15 YEARS	111	12.3
16 TO 20 YEARS	53	5.9
OVER 20 YEARS	39	4.3
TOTAL	901	100.0

TABLE 26

DISPOSITIONS FOR OFFICERS INVOLVED IN COMPLAINTS

	No.	%
FORMAL RESOLUTION		
NO ACTION WARRANTED	592	65.3
OFFICER COUNSELLED AND/OR CAUTIONED	19	2.1
TOTAL FORMAL RESOLUTIONS	611	67.4
INFORMAL RESOLUTION		
INFORMAL RESOLUTION	255	28.2
INFORMAL RESOLUTION & OFFICER ADVISED/SPOKEN TO	33	3.6
INFORMAL RESOLUTION & OFFICER COUNSELLED AND/OR CAUTIONED	6	0.7
TOTAL INFORMAL RESOLUTIONS	294	32.5
OTHER	1	0.1
TOTAL	906	100.0

In one-third of the cases, the police laid charges for criminal offences committed by complainants, that is, driving charges, obstruct police, property offences, etc. The full list of criminal charges may be found in Table 27. The majority of these charges (99.5%) were laid before a complaint had been filed by the complainant.

In only one case was a charge laid after the complaint was filed. Once the facts are examined, it can be seen that this was not an example of a complainant being charged with an offence as a reaction to his having filed a complaint even though the charge was laid after the complaint. Therefore, the initial concern that a complainant may be vulnerable to being charged with a criminal offence as retribution for filing a complaint is unfounded.

The case referred to was one in which the complainant was charged with dangerous driving and escape custody. The officer attempted to arrest the complainant at the scene but he drove off. The interchange between the officer and the complainant gave rise to a complaint which was filed within twenty minutes of the incident. The complainant was not, however, arrested until approximately one week later.

Of the 206 charges laid, we were unable to determine the outcome in 174 of the cases. Of the remaining 32 charges, 23 of the complainants were found guilty as charged, 4 were found not guilty and 5 charges were withdrawn.

During the first year of operation, the information necessary to record dispositions of charges was not available, thus accounting for the relatively few cases

TABLE 27

CRIMINAL CHARGES LAID BY POLICE AGAINST COMPLAINANTS

	No.	%
NO CRIMINAL CHARGE	403	66.2
INTOXICATED, DISORDERLY	61	10.0
OBSTRUCT POLICE	44	7.2
DRIVING VIOLATION	42	6.9
PROPERTY OFFENCE	38	6.3
ASSAULT	10	1.6
PUBLIC MISCHIEF	0	0.0
OTHER	11	1.8
TOTAL	609	100.0

for which this information was reported. This information has now been made available to our Office and will be reported in our next Annual Report.

2. Criminal Charges Against Police Officers

In 6 cases, criminal charges were laid against police officers by complainants and proceeded with. In 3 of these cases the charge was common assault and in the other 3, the charge was assault causing bodily harm. Four of the cases were withdrawn before they went to trial. In 2 cases the charges were dismissed by the trial Judge.

H. OTHER CONTACTS WITH OUR OFFICE

During our first year a total of 922 formal complaints were lodged. However, there were an additional 331 contacts with our Office, involving 266 people, concerning inquiries which, although did not develop into complaints, took a substantial amount of time.

Of the 331 contacts, 75.5% were made by telephone, 12.7% were made in person and 11.8% were made by mail. It should be noted that each initial inquiry required approximately 30 minutes to resolve, in addition to the time spent on subsequent contacts.

Some of the people came to our Office on their own, whereas others (30) were referred to us in a variety of ways, including referrals from government agencies, private lawyers, the media or by the Citizens' Independent Review of Police Activities (C.I.R.P.A.).

89.7% of the contacts with our Office inquired about specific incidents and wished to know whether or not they had a complaint that was within our jurisdiction. 10.3% of the contacts with our Office were to receive information about our Office or complaint procedures in general.

32.3% of the initial contacts required some degree of follow-up: 16.9% of the contacts required telephone calls; in 11.8% of the contacts it was necessary to write a letter and in 3.6% of the contacts interviews were conducted. For the 3.3% of the remaining contacts, interviews were arranged, however, the individual failed to attend.

In 28.7% of the contacts, the complaint was not within our jurisdiction or substantially predated proclamation of the Act, making investigation impossible.

Our Office referred 66 people to various agencies or professionals. This was broken down as follows: 26 were referred to the police; 14 referrals were made to the Law Society or lawyers; 9 were referred to various police commissions; 7 were referred to the Ombudsman, 3 were referred to doctors and 7 others were miscellaneous referrals.

These contacts were inquiries where no complaints were ultimately registered. Dealing with them, however, occupied a considerable amount of staff time.

PART III

General Comments

PART III

GENERAL COMMENTS

A. THE RELUCTANT COMPLAINANT

It takes courage to complain about any person in a position of authority.

A complainant may fear, justifiably or not, that there will be retribution for his complaint. He might be facing criminal charges in which the same police officers are involved. He may be a juvenile with whom the police have frequent contact in the community. He might be concerned about being charged with public mischief.

Even a person who is not subject to criminal proceedings may wish to consider carefully whether or not to pursue a complaint. Like any process which is powerful enough to protect rights and sanction wrongdoers, ours will demand a commitment of time and effort. In return, the complainant who is prepared to come forward will have access to our system of investigation, review and, if appropriate, a public hearing. In addition, each complaint forms part of our database, enabling us to detect trends and to make specific recommendations regarding changes in practices and procedures.

Also, depending on the nature of the misconduct, if a finding is made by the Police Complaints Board, the subject officer could be counselled, cautioned, suspended or dismissed.

This is not to say that other avenues of redress are foreclosed. The option of utilizing the civil or criminal courts is, of course, still open to any individual in an appropriate case.

When we began this project, I was concerned that the natural reluctance to complain about the police should not be fueled by the fear of being charged with public mischief. If anyone has any doubt or fear about how to proceed with a complaint, he should consult with a legal adviser, but I am pleased to note that in our first year of closed cases, not one complainant was charged with public mischief as a result of making a complaint.

B. DISCLOSURE TO COUNSEL

Pursuant to s. 22, ss. 2 of the Act, no person engaged in the administration of the Act or the Regulations can be required to testify in any civil suit. The Act does not and cannot constitutionally address the compellability of persons or admissibility of evidence at criminal trials.

Both Crown and defence counsel have requested material from our files for use at criminal trials. This is an issue which may be judicially considered at some time. Until then, our policy will continue to be to make every effort to provide adequate disclosure for the purposes of a hearing before the Police Complaints Board while at the same time protecting the confidentiality of our files. The Act provides that the complainant and the subject officer shall be afforded an opportunity to examine, prior to the hearing, any written or documentary evidence that will be produced at the hearing.

C. LEGAL AID

Prior to the first hearing before the Police Complaints Board, there was some uncertainty as to whether or not a complainant who wished to be represented at a hearing, but who could not afford to retain counsel, would be eligible for legal aid. At the time of writing this report, there were a number of cases that had been referred to the Board for hearings. I am pleased to report that so far any complainant who wished counsel and who qualified financially has been granted a certificate for legal aid.

At a hearing, the Board counsel calls witnesses and presents evidence to the Board. Accordingly, although a complainant is entitled to legal representation, he may proceed without counsel.

D. CRIMINAL CHARGES RELATED TO COMPLAINTS

Where criminal charges were laid against a complainant, past practice of the Bureau had been to suspend the investigation of the complaint pending disposition by the courts. This would normally create a hiatus of some months after which time the investigative trail would grow cold. Initially, support for this position came from the Crown Attorney's office. The Crown Attorney would often request that the police officer investigating the complaint defer his investigation pending disposition of the trial.

After discussion between our Office and the Director of Crown Attorneys, a memorandum was sent to the Deputy and Regional Crown Attorneys advising that it was the view of the Director that the investigation of complaints should generally not be deferred.

Subsequent discussions with the Bureau resulted in an agreement that where a trial was pending or in progress, the Bureau would continue its investigation. The investigator would continue to report as usual, but if doing so might impair a pending or ongoing trial, he would not divulge the contents of statements taken. As a final investigative step, the investigator might monitor the course of the trial.

E. PRE-PROCLAMATION CASES

During the period when our Office was operating informally, three complaints were reviewed which, had they been made after the proclamation of the Act, may have been sent to the Police Complaints Board for a public hearing. Without the legislation in place, however, this was not possible. In lieu of this procedure, it was decided that these cases be referred to the Metropolitan Toronto Board of Commissioners of Police. Accordingly, I attended before the Board of Commissioners and requested that they conduct hearings in these three cases. The Board of Commissioners acceded to this request. Hearings were ordered and dates set with respect to these three cases, but at the time of writing, no final dispositions had been made.

When we issued our Interim Report, which dealt with the informal period of operation, 20 cases remained open. Except for the Hold-Up Squad group of cases, which will be reported separately, all of these cases are now closed.

F. RECOMMENDATIONS

Pursuant to s. 17 of the Act, I have the power to recommend changes in police practice and procedure. In our first year of operation, I made two recommendations. These arose out of a review of a complaint wherein the complainant was initially arrested for trespass. After being taken to the police station, the complainant was told that he was being charged with breach of the peace and the charge of trespass was dropped. He was detained for several hours and subsequently released, no charges having been laid. It was my view that the complainant's actions amounted to trespass and that the initial arrest was, therefore, lawful. Furthermore, the complainant could have been lawfully detained on that charge. However, it is arguable whether the police have the power to arrest or detain a person for behaviour amounting to a breach of the peace, which is not otherwise a criminal offence.

The state of the law is unclear. It has been held that breach of the peace is a common law expression and the exact meaning of it is uncertain. In itself, it is not an offence, but it includes numerous criminal offences within its meaning.

Furthermore, there is no provision in the Provincial Offences Act that expressly empowers a police officer to unconditionally release a prisoner arrested for a provincial offence -- in other words, in this case, to drop the charge of trespass once the complainant had been arrested. This is not to say that no such power exists, only that it is not clear from the Act that it does.

The two recommendations I made in a 15 page report containing a detailed analysis of the law with respect to this complaint are:

> Recommendation #1 - The Ministry of the Attorney General and the police community should study the release provisions in the Provincial Offences Act in order to review the availability of an officer's discretion to unconditionally release a person arrested for a provincial offence and to clarify the circumstances in which such discretion should be used.

> Recommendation #2 - The Ministry of the Attorney General and the police community should study the state of the law concerning "breach of the peace" with specific emphasis as to whether it is lawful to arrest someone for "breach of the peace", simpliciter. Until such a study is completed, the Metropolitan Toronto Police Force should NOT arrest or detain anyone for "breach of the peace".

This area of the law has now been reviewed by officials in the Ministry of the Attorney General and a legal opinion and guidelines have been given to the police consistent with the spirit of the recommendations.

It is my expectation that a number of recommendations will result from the investigation into the Hold-Up Squad complaints. In addition, recommendations have already been made with respect to the Morrish Road incident. These were made in our second year of operation and will be fully reported in our next Annual Report.

G. PUBLIC RELATIONS

Distribution of our pamphlet, CONTACT, continued throughout the year. To date, 32,000 copies have been made available to the general public through community information centres, legal clinics, courts, police stations, constituency offices of Metropolitan Toronto MPs and MPPs, aldermen/controllers' offices, libraries, government bookstores, liquor stores, supermarkets, driver examination centres, licence issuing offices and other miscellaneous outlets. Copies were also distributed through the Criminal Lawyers' Association to all of its members and made available to every police officer in Metropolitan Toronto. (A copy of the pamphlet is reproduced in Appendix "K").

Members of my staff and I have given interviews for television, radio and the Toronto newspapers. As a result, articles about the work of our Office have appeared in newspapers across Canada.

Early in 1982, our Office placed an advertisement on two occasions in over 42 ethnic publications including the Kerala Express (Malayalees), the Nikka Times (Japanese), Sanjh Savera (Panjabi), Contrast, the Shing Wah Daily News (Chinese) and the India Star (Indian). (A copy of this advertisement in English and in Panjabi is reproduced in Appendix "L").

After the Police Complaints Board appointments were announced in June, I invited each member of the Board to meet with me. Some of these meetings resulted in television, radio and newspaper coverage in the Italian, Portugese and East Indian media. Familiarization sessions for the Board, in groups of eight, took place during the summer months in preparation for hearings in the fall.

There was a great deal of media interest once public hearings by the Board were announced in the fall of 1982. We conducted an information seminar for members of the media to assist in their understanding of the Act.

Also, during the summer and early fall, each individual or group that appeared before or submitted a brief to the Justice Committee, was invited to visit our Office. Representatives from many of the groups attended to see our Office and meet with our staff. These meetings were very useful as I was able to explain how the system works and discuss their concerns. I hope to repeat this procedure later in the project.

Members of my staff and I participated in lectures and seminars for senior police administrators at both the Ontario Police College in Aylmer and the C.O. Bick Police College in Toronto. Also, a series of informal Sunday morning meetings with constables, supervisors and unit commanders took place during July and August at a number of police divisions.

General requests for information from members of the public, including university, college and high school students increased during the year. As a result of the interest expressed by some high school law teachers, we started a program to reach audiences such as these.

Speaking engagements were filled in response to requests from a variety of community groups by both myself and my senior staff. We also attended a number of conferences during the year.

PART IV

Highlights of Work in Progress

PART IV

HIGHLIGHTS OF WORK IN PROGRESS

A. GENERAL

Complaints have continued at a steady pace of approximately 75 to 80 per month. During the first year, our Office undertook 13 investigations of its own under Section 14(3) of the Act. None of these cases were closed in this period and will, therefore, be reported in our next Annual Report. In addition, the number of requests for review has increased.

There are several Police Complaints Board hearings scheduled to take place over the next few months which will be recorded in our next Annual Report.

Disciplinary proceedings were taken by the Chief of Police under the Police Act, in five cases during the first year, however, none of these proceedings were completed by the end of our reporting period. They will be recorded in our next Annual Report.

B. HOLD-UP SQUAD REPORT

In our first year of operation, our Office reviewed the investigations carried out by the police into the allegations made against members of the Hold-Up Squad. These cases, which all pre-date proclamation of the Act, account for the remaining pre-proclamation matters.

Our report was substantially completed in October, 1982 and was to be released at that time. However, because of the commencement of a criminal jury trial involving matters similar to those which were the subject of our investigation, it was my view that the report should not be released until the conclusion of that trial.

In November 1982, a news release was issued by our Office as follows:

> *"My investigation into a number of allegations of police brutality made by a group of lawyers against some members of the Metropolitan Toronto Police Hold-Up Squad is substantially complete. However, there is a criminal trial currently before the Courts and it is my view that if this report were released during the trial, it might be portrayed in such a way as to have a possible effect on the trial. Therefore, I have decided to release this report after the trial has been concluded."*

At the time of writing, this criminal trial was in its sixth month and still proceeding. Although it may be necessary to review the trial proceedings, the report will be released as soon as practicable after the trial has been concluded.

C. JANE/FINCH COMPLAINTS

The police force conducted an operation on November 12, 1982 in the "Jane/Finch" area of Toronto which resulted in the arrest of 23 people.

The Jane/Finch area has been the subject of much debate concerning police/minority relations and as a result, the police action generated public interest and criticism. It was suggested that a substantial number of people wished to complain about the behaviour of the police. In response to a request from the local legal aid clinic, two members of my staff attended on several occasions at the clinic, located in the Jane/Finch Plaza, to receive complaints.

One complaint was received in relation to the November 12, 1982 operation and three other unrelated complaints were also received. In addition, we assumed the ongoing investigation into nine other complaints, unrelated to the November 12 incident.

In view of the public interest and the reluctance of the complainants to have any dealings with the police, my Office conducted part of the initial investigation into these complaints. The investigation of these complaints resulted in 50 civilians and 58 police officers being interviewed by either the Bureau or by members of my staff. Essentially, the Bureau investigators interviewed the police witnesses whereas my investigators interviewed the civilian witnesses.

These cases will be included in our next Annual Report.

Being cognizant of the concerns expressed by residents of the Jane/Finch area, members of my staff have attended many meetings with residents and community leaders and meet regularly with police officers, Human Rights Commission staff and other interested persons in the area to ensure an ongoing presence and awareness of our Office.

D. MORRISH ROAD INCIDENT

Following an incident which occurred at 535 Morrish Road in Scarborough, on May 29, 1982, a number of people complained about police misconduct. Some of those people complained to the police force while others complained to our Office. In accordance with the procedure of the Act, the investigation by the police into those complaints commenced immediately.

Over 100 witnesses, including police officers and civilians, were interviewed. Many photographs and scale drawings were prepared and a videotape of part of the incident made by CITY-TV was examined.

Interim reports of this police investigation were forwarded to the complainants as well as to our Office. In addition, these reports were reviewed by the local Crown Attorney who decided that there was not sufficient evidence to justify laying any criminal charges.

On August 12, 1982, Chief Jack Ackroyd asked our Office to continue the investigation in a more independent manner. Our investigation included reviewing the police investigation and interviewing a number of other witnesses, both police and civilian. In November, 1982, the results of our investigation up to that point in time, together with the earlier police investigation, were reviewed by senior Crown Law Officers and by senior officers from the police force. They decided that the available evidence was insufficient to lay either Criminal Code or Police Act charges.

Shortly thereafter, I decided that it was in the public interest to continue my investigation in a more public way. As a result, during the month of January and February, 1983, 53 witnesses, civilian and police officers, were examined under oath and in public. This was a unique procedure that attracted significant media attention. Our final investigation report was forwarded to the Chief of Police in April, 1983. This incident is, therefore, not covered by the period in this report and will be recorded in our next Annual Report.

E. RESEARCH

An important part of our continuing responsibility is to evaluate the effectiveness of our system. In this regard, we developed the research project referred to in Part II, Research and Statistics. Questionnaires were designed and sent to each police officer on the Metropolitan Toronto Police Force at the outset of the project to gauge their initial reactions to the new system. Near completion of the project, we plan to send a similar questionnaire to each police officer to determine whether any changes in attitude took place over the three year period. Our research analyst will then analyze the completed questionnaires. In addition, we developed and forwarded to each complainant, upon completion of his complaint, a questionnaire which was designed to determine the level of satisfaction and understanding that each complainant had while proceeding through the entire system. The results of these questionnaires are presently being analyzed and evaluated.

We visited a number of cities in Canada, the United States and England to compare civilian review systems. We have received visitors from many places including other parts of Canada, the United States, England, Ireland, the Netherlands and Australia. We are corresponding with many jurisdictions in order to keep abreast of developments. For example, new systems are presently being considered in San Francisco, Chicago and the United Kingdom. We hope to sponsor a "state of the art" conference on the subject of police complaints some time prior to the fall of 1984.

PART V

Police Complaints Board

PART V

THE POLICE COMPLAINTS BOARD

A. BACKGROUND AND MEMBERS

The Police Complaints Board is a new, totally independent civilian agency which came into being with the passing of Bill 68. It consists of 24 civilian members, all of whom are appointed by the Lieutenant Governor by Order in Council. One-third of the members are recommended for appointment by the Attorney General; one-third of the members are recommended for appointment by Metro Council and the remaining one-third of the members are recommended jointly by the Metropolitan Toronto Board of Commissioners of Police and the Metropolitan Toronto Police Association. The members were appointed on June 16, 1982 and include respected judges, lawyers, religious and labour leaders, teachers and businessmen -- people with a variety of cultural and racial backgrounds.

Notwithstanding their distinguished backgrounds, few of the members had any experience in conducting an administrative hearing prior to appointment. Accordingly, our Office conducted a number of seminars to familiarize members with the Act and to discuss the conduct of hearings. All members attended these seminars and their contribution was important.

Following these seminars, our Office prepared a handbook for the use of Board members. Several Board members subsequently advised us that they found this handbook very useful and we intend to amend it as experience dictates. The handbook is in a looseleaf binder and contains, among other things, a summary of the law of evidence, an article dealing with effective decision writing and a detailed analysis of the Act.

A brief resume for each of the Board members follows:

Anne Barrett - A lawyer. Born and raised in Toronto. Graduated in 1963 with a Bachelor of Arts from York University and from Osgoode Hall Law School in 1974. Called to the Bar in 1976. Before beginning her legal career, was employed as an advertising copy writer and an occasional teacher of English in Toronto secondary schools. Since 1976 has practiced criminal and family law. Since 1977 employed on a periodic basis as a fact-finder, mediator and arbitrator by the Education Relations Commission.

Brian A. Grosman, Q.C. - Born in Toronto. Graduated from University of Toronto with a B.A. and LL.B. and subsequently LL.M. from McGill University. Called to Bar of Ontario in 1961 and appointed Queen's Counsel in 1980. Practiced law in Toronto and Ottawa as a defence counsel and part-time prosecutor before joining the Faculty of Law at McGill University in 1965 where he taught criminal law, evidence, the administration of criminal justice and criminology. Appointed Professor of Law, University of Saskatchewan in 1971 and in 1974 appointed founding Chairman of the Law Reform Commission of Saskatchewan. Returned to practice of law in Toronto in 1979 as a partner in the firm of Greenglass & Grosman. The author of *The Prosecutor: An Inquiry into the Exercise of Discretion*: *Police Command, Decisions and Discretions*: *New Directions in Sentencing* and *The Executive Firing Line: Wrongful Dismissal and the Law*. Member of the Advocates' Society, the Advisory Council of the Human Rights Foundation of Canada and the editorial board of the Conflict Quarterly.

Judge Vibert A. Lampkin - Graduated in 1957 with Bachelor of Laws from the University of London and a Master of Laws from York University in 1977. Called to the Bar of Ontario in 1969. Since 1973 a partner in the firm of Rosenfeld, Malcolmson, Lampkin and Levine and since 1975 has been chief litigation counsel of the firm. Appointed Provincial Court Judge in 1982. Member of the Area Committee of the Ontario Legal Aid Plan. Resident of Don Mills and married with one child. Member of Toronto Jaycees and former Director of Oxfam Canada. Founding member and President of the Guyana Theatre Players (Canada.)

Stanley M. Makuch - A lawyer. Associate Dean, Faculty of Law, University of Toronto. Associate Professor of Law and Urban Planning, University of Toronto. Graduated in 1967 from University of Toronto with an Honours B.A. in History, an M.A. in History from Carleton University in 1968, an LL.B. from Osgoode Hall Law School in 1971 and an LL.M. in 1972 from Harvard Law School (specializing in local government and urban studies). Written widely on provincial and municipal legal and planning issues. Member of the Toronto Planning Board, 1977 to 1979 and Chairman of the Board's task force on planning in the 1980's. Research report on freedom of information in local government for Commission on Freedom of Information and Individual Privacy. A resident of Toronto, married with two children.

Dennis R. O'Connor, Q.C. - Graduated from Osgoode Hall Law School in 1964. Called to the Bar in 1966. Practiced law in Toronto from 1966 to 1973 when appointed a Magistrate for the Yukon Territory. From 1974 to 1976 a Provincial Court Judge in British Columbia. From 1976 to 1980 a professor, Faculty of Law, University of Western Ontario. Appointed Queen's Counsel in 1980. Counsel with the firm of Borden & Elliot and Chief Negotiator for Government of Canada on the Yukon Indian Land Claim.

Roop Narine Sharma - A lawyer. Educated in England and at the University of Windsor, Faculty of Law. Legal advisor and from 1968 to 1970, Crown Attorney, Government of Guyana. In private practice in east Toronto since 1977. President of Canada Hindu Organization, member of Board of Directors of Ward 7 News, member of Riverdale Inter-Cultural Committee, advisory member, South Asian Community Organization.

Judge Pamela A. Sigurdson - A Judge of the Provincial Court (Civil Division) since April, 1981. Graduate of Queen's University and of the University of Toronto Law School. Called to the Ontario Bar in 1968 and practiced law in Toronto until May, 1971 when she and her family moved to Montreal. Judge Sigurdson who is bilingual, was called to the Bar of Quebec in 1972. While in Montreal, she was Executive Director and Counsel for the Centre for Public Interest Law. Practicing law in Toronto since 1974. Author of Small Claims Courts and Consumer Access to Justice, 1976, Consumer Research

Council of Canada. A member of the Canadian Environmental Law Association. Former member of the Advertising Standard Council's Committee on Children's Advertising and a Director of the Canadian Broadcast League. Judge Sigurdson and her husband, James, have two sons.

John Sopinka, Q.C. - Graduated from the University of Toronto in 1955, from University of Toronto Law School in 1958. Called to Bar in 1960. Appointed Queen's Counsel in 1975. Member of the University of Toronto Blues football team (1954 Inter-Collegiate champions) and half-back with the Toronto Argonauts from 1955 to 1958. Member of the Advocates' Society Canadian Bar Association, the Lawyers' Club, County of York Law Association and the Association of Trial Lawyers of America. Member of Board of Education for the Town of Oakville, 1967 - 69. Founding Director of the Oakville Chapter of the Canadian Save the Children Fund. Founding Director of Kelso Music Centre. Member of the Executive of the Etobicoke Philharmonic Society. Acted in the following Commissions: Commission of Inquiry into the Coroner's Office of the Municipality of Metropolitan Toronto, Commission of Inquiry into Allegations against the Provincial Police of Ontario, Commission of Inquiry into North Pickering, Commission of Inquiry - The Royal Canadian Mounted Police Relationship with Department of National Revenue - Taxation, Chief Counsel, Commission of Inquiry on Aviation Safety.

David B. Archer - Past President, Ontario Federation of Labour. Past President of Textile Workers' Union, Local 1 and of the Toronto and Lakeshore Labour Council. Past vice-president of Canadian Labour Congress. Member of Ontario Labour Relations Board since 1948. Member of Board of Governors, York University. Has been associated with Toronto Symphony, United Appeal, Toronto Arts Foundation, St. John's Ambulance and the Housing Authority of Toronto.

Mary L. Clements - Graduated from University of Toronto with B.A. in 1953. President, Children's Aid Society of Metropolitan Toronto. Member, Board of Trustees of the United Way of Greater Toronto. Past Chairman of Ontario Motor League, Toronto Club and Chairman of the Ontario Motorist Insurance Company. Past President of the Junior League of Toronto. Founding member of Urban Alliance on Race Relations.

William Crothers:- A Pharmacist. Placed second in the 800 metre race in the 1964 Olympics. Still holds record for the Canadian 880 yards and 800 metres. Graduated from University of Toronto in 1963 with B.Sc. in pharmacy. Owns and operates a pharmacy in Markham. Member of Board of Directors of Children's Aid Society of York Region and former Board member of Participation House, Markham. Married with three children.

Rabbi David A. Monson - Served as Rabbi of Shaarei Shomayim Congregation in Toronto from 1939 to 1943. Chaplain with the Canadian Army overseas from 1943 to 1945. In 1946 founded Beth Sholom Synagogue and serves as its Rabbi. Executive member of Junior Achievement of Canada, St. Alban's Boys and Girls Club, Speech Foundation of Ontario, Canadian Red Cross, Toronto Branch, Amyotrophic Lateral Sclerosis Society of Canada, The Winona Project of the Co-operative Housing Federation of Toronto, Inc. Member of Mount Sinai Masonic Lodge, The Royal Commonwealth Society, The Monarchist League of Canada, Toronto Lodge of B'nai Brith, The Empire Club, the Canadian Club, Canadian Zionist Federation of Canada, Barband Labour Zionist Organization, The Association of World War II Chaplains of the U.S. and Canada, the Rabbinical Association of the U.S. and Canada.

William J. Popowich - A real estate appraiser and consultant. Served as Executive Committee Member on various social, religious and political organizations within the Ukrainian Community of Toronto, including as President of the Ukrainian Catholic Religion and Culture Society (Etobicoke). Grand Knight, Knights of Columbus, Shyptytsky Council 5079. Director of St. Demetrius Church Committee and Cultural Society. Served as President of St. Demetrius Church Committee and Cultural Society. Member of the Etobicoke Planning Board since 1977 and Chairman in 1980 - 81. Member of the Board of Trade, Empire Club, American Right-of-Way Association, Knights of Columbus, Alpha Appraisal Association, St. Demetrius Ukrainian Catholic Religion and Culture Society, St. Demetrius Choral Society.

Rev. Robert L. Rumball - Graduated from the University of Toronto in 1952 and from Northern Baptist Seminary, Chicago in 1955. Received a D.D. degree in 1969 from Victoria University and an LL.D. from the University of Toronto in 1973. Executive Director of the Mission of the Deaf which operates the Ontario Community Centre for the Deaf and other facilities. In the 1950's played four years with the Ottawa Rough Riders and the Toronto Argonauts. In 1976 became a member of the Order of Canada. In 1978 given the Lion's International Humanitarian Award. In 1980 awarded the Paul Harris Fellowship by Rotary. In 1982 awarded the Order of Merit by the City of Toronto.

Shamsher Singh - Involved with international trading industry. Former Executive Director of Intertask Limited, Ottawa and former economic counsellor to High Commission of India, Ottawa. Graduated in 1955 with Master of Arts (Economics) from University of Agra. Member of Rotary Club and Canadian Club.

James G. Westaway - Since 1980, President of Barbecon Inc., a paper and office products firm. Graduated from University of Western Ontario, School of Business Administration, Honours B.A. Held various positions with Mercantile Bank of Canada and First National City Bank of Toronto, Port-of-Spain, Trinidad, Bridgetown, Barbados, 1965-72; Canadian Manager, Citicorp Leasing International, Toronto, 1972, President, Toronto-Dominion Leasing Limited, Toronto, 1973; Executive Vice-President, Barber-Ellis, Toronto, 1974; Member of numerous clubs and associations including Canadian Paper Trade Association, Board of Trade, Empire Club; Past Chairman of the Board, Y.M.C.A.; National Council of Y.M.C.A. of Canada, Chairman Financial Development Committee Y.M.C.A. Married with one son and three daughters.

Arthur L. Cole - Began a 40 year career in journalism while attending school in Belleville. Joined the Toronto Telegram in 1939. After war service in the Army he returned to Canada with the rank of Captain and in 1946 started as a reporter with the Globe and Mail. Returned to the Telegram in 1954 as City Editor, a post held until 1967 when he became United Nations correspondent for the paper. In 1968 became News Director of CFRB and four years later was named Director of Community Relations for the station, from which he recently retired. A Director of the Ontario Educational Communications Authority; Permanent Chairman of the Canadian News Hall of Fame; member of National Public Relations Advisory Committee, The Salvation Army, member of the Board of Trade, Toronto Press Club, member of Advisory Committee, School of Journalism, Ryerson Polytechnical Institute.

Dr. Daniel G. Hill - A sociologist and human rights consultant. Graduated from Howard University in 1948. Received M.A., University of Toronto in 1951 and Ph.D. in 1960. Director of the Ontario Human Rights Commission from 1962 to 1971 and Chairman from 1971 to 1973. Consultant to the Canadian Civil Liberties Association and President of the Ontario Black History Society. From 1978 to 1980 carried out a study of Mind Development Groups, Sects and Cults in Ontario for the Attorney General. Special Advisor, Mayor's Committee on Community and Race Relations, 1980-81.

Jay Hong - A metallurgical engineer. Graduated with B.Sc. degree from Inha Institute of Technology in Korea and with an M.A. Sc. degree from the University of Toronto. Chairman of the Board for Toronto Korean Bible Institute. Director of Toronto Korean Church T.V. Mission Programme. President of Mac's Franchise Dealers Association. Spokesman for Becker's Franchise Dealers Association. Representative Elder of Toronto Korean Presbyterian Church to Presbyterian Church of Canada.

Birthe Jorgensen - Criminologist and homemaker. Graduated from the University of Toronto with a B.A. in 1973 and studied at Faculty of Law, University of Toronto. Received M.A. at the University of Toronto, Centre of Criminology in 1976. In January, 1979 began Ph.D. studies at the Institute of Criminology, University of Cambridge, England.

Herbert S. Levy - A former Judge of the Court of Canadian Citizenship. Former executive vice-president of Canadian B'nai B'rith. Ontario Commander of the Jewish War Veterans of Canada and Anti-Defamation League Commissioner for Canada. A former radio news commentator.

Kart Derrick McLennon - Training officer with Community Guardian Co. Ltd., which serves public housing projects. Previously a detective with the Jamaican Police Department. Graduated from Seneca College with social services diploma in 1977. Enrolled in Atkinson College, York University political science program. Married with four children.

Clement W. Nusca - Head of own insurance agency. Speaks English, French, Italian. Director and President of Canadian-Italian Business and Professional Men's Association. Formerly with Italian Federal Police and Interpol.

John F. Santos - Real Estate Agent. Former president of First Portuguese Canadian Club. Member of Canadian Consultative Council on Multiculturalism. Director of the Federation of Portuguese Canadian Business and Professionals of Toronto. Vice-President of National Soccer League and Chairman of its discipline committee.

B. BOARD HEARINGS

Although hearings were scheduled for dates in the fall of 1982, requests from counsel for adjournments resulted in delays. Progress was also retarded by the fact that issues were raised by the very novelty of these proceedings. For example, complainants who required financial assistance with legal fees had to ascertain their eligibility with the Ontario Legal Aid Plan. There were also many administrative problems to resolve, but now that several hearings are in progress, it is anticipated that subsequent cases will go to the Board expeditiously. The results of all hearings completed prior to December 21, 1983, will be recorded in the next Annual Report.

One hearing, which was commenced prior to December 21, 1982, was not completed until early January, 1983. Although this hearing is not technically included in this reporting period, a brief synopsis of it follows:

> *As a preliminary matter, the Board in this case had to consider the presence of television cameras. The Board felt that the proceedings should not be closed and that television cameramen should be allowed to film the hearing, subject to the objection of any party. It was noted that it is important to the credibility of a public complaints procedure that the proceedings be, in all respects, public.*
>
> *The hearing itself involved a juvenile who was living in a group home operated by the Children's Aid Society. The night the incident occurred, a worker at the group home reported to the police that the juvenile was missing. He was out past his 10 p.m. curfew and on this night was not allowed to be out at all.*
>
> *Two officers arrived at the group home, were advised of the facts and left. At approximately 1:30 a.m. the officers were asked to return as the complainant had returned. The juvenile complained that one of the officers took him outside and demanded to know where he had been. He refused to tell the officer and he alleged that he was then "smacked" twice by the officer, threatened, grabbed by the hair and hit in the face with a closed fist.*
>
> *The complainant also stated that the officers threatened to come back and beat him up if the staff at the group home could not control him.*
>
> *The officer testified that he believed the youth was out with a 32 year old male who had just been released from jail. He was also told that the staff at the group home were concerned about the complainant's whereabouts and that the complainant was very uncooperative. The officer also thought that the complainant's refusal to co-operate was an effort to impress the staff of the group home. The officer admitted taking the complainant outside for this reason. He testified that when they were outside,*

> the complainant swore at him and continued to refuse to divulge his whereabouts. The officer admitted raising his voice and demanding to know where he had been. He testified that the complainant swore at him and made a quick move towards the stairs. The officer grabbed the complainant by the jacket and the complainant slipped and fell. The officer testified that he helped the complainant up and took him back inside. He stated that at no time did he strike or threaten to strike the complainant.
>
> The officer's partner, who remained inside the house at all times, corroborated this testimony in so far as what happened inside the house. He also testified that the complainant did not complain about being assaulted or threatened when he returned to the house.
>
> Counsel for the Board called the various witnesses and examined them in chief. Both the subject officer and the complainant were represented by counsel. These counsel each cross-examined the witnesses and had an opportunity to call additional evidence. Submissions were then made to the Board. After considering the evidence and the submissions, the Board dismissed the complaint. It found that the only independent evidence was that of the case workers in the group home. The only direct evidence they had to give was what they actually observed in the house. The Board also found the evidence of the complainant unreliable. Neither were they totally satisfied with the officer's testimony. However, they felt that there was not sufficient evidence to sustain the complaint and accordingly dismissed it.

Hearings are held in a royal commission hearing room and are similar to other administrative or quasi-judicial proceedings. The Statutory Powers Procedure Act and the rules of natural justice apply and all hearings are open to the public.

APPENDICES

APPENDIX "A"

List of Reports and Authors

1. Report to the Metropolitan Toronto Board of Commissioners of Police by Arthur Maloney, May 12, 1975.
2. The Report of the Commission of Inquiry Relating to Public Complaints, Internal Discipline and Grievance Procedure within the Royal Canadian Mounted Police, by His Honour Judge Rene J. Marin, Chairman, January 16, 1976.
3. The Royal Commission into Metropolitan Toronto Police Practices, by the Honourable Mr. Justice Donald R. Morand, June 30, 1976.
4. Report, "Now Is Not Too Late" submitted to the Council of Metropolitan Toronto by Task Force on Human Relations, Walter Pitman, November 1977.
5. Report to the Civic Authorities of Metropolitan Toronto and its Citizens, by Gerald Emmett Cardinal Carter, October 29, 1979.

Form 2

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

POLICE COMPLAINT PROCEDURES AND RIGHTS OF A PERSON MAKING A COMPLAINT

To the Complainant:

This statement briefly sets out the procedures that will be followed upon receipt of your complaint against a member of The Metropolitan Toronto Police Force and your rights under the **Metropolitan Police Force Complaints Project Act, 1981.**

Who Sees Your Complaint

1. No matter where your complaint is recorded a copy of the complaint will be sent to the Public Complaints Commissioner and the Public Complaints Investigation Bureau (the Bureau) of the Metropolitan Toronto Police Force.
2. The police officer concerned will be informed of the substance of the complaint unless the investigation might be adversely affected if the police officer is so informed.

Informal Resolution

3. The person in charge of the Bureau will consider whether your complaint can be resolved informally and if this is possible he will attempt to do so, but only if he has your consent and the consent of the police officer concerned.
4. No complaint can be resolved informally unless both you and the police officer concerned agree in writing to the resolution.

Investigations and Reports

5. If the complaint is not resolved informally, the Bureau will investigate the complaint. The investigator will interview you, the police officer concerned and any other witnesses.
6. You will receive a report not later than thirty days after you make your complaint and on a monthly basis thereafter unless the investigation of the complaint might be adversely affected by a report or there are no new matters to report. The Public Complaints Commissioner will also receive these reports.
7. If at any time you are not satisfied with the manner in which your complaint is being handled you may contact the Office of the Public Complaints Commissioner, telephone: 963-1141
8. In certain situations the Public Complaints Commissioner may decide to do his own investigation before the Bureau completes its investigation.
9. When the Bureau investigation has been completed, a final report will be sent to you, the Public Complaints Commissioner, the chief of police and the police officer concerned.

Decision of the Chief of Police

10. The chief of police or his designate will review all investigation reports and make one of the following decisions:

    i. Order further investigation.

    ii. Decide that no further action is warranted.

    iii. Cause a charge to be laid against the police officer and refer the matter to the Crown Attorney for prosecution.

    iv. Refer the matter to the Police Complaints Board for a hearing.

    v. Cause disciplinary proceedings to be taken against the police officer under the **Police Act.**

    vi. Counsel or caution the police officer regarding his conduct.

11. You will be informed in writing of the decision made by the chief of police.

Review By Public Complaints Commissioner

12. If you are not satisfied with any of the following decisions you may request the Public Complaints Commissioner to review the matter:

    i. The decision of the chief of police that no further action is warranted.

    ii. The decision of the chief of police to counsel or caution the police officer regarding his conduct.

    iii. The decision made in a disciplinary proceeding under the **Police Act.**

13. Upon receipt of you request, the Public Complaints Commissioner will review the matter, and his staff have broad powers to investigate. Documents must be made available, and individuals can be subpoenaed to answer questions.

14. After his review, the Public Complaints Commissioner may order a hearing before the Police Complaints Board where he feels that the public interest requires it. If he decides that there should not be a hearing, he will give you his reasons. The Public Complaints Commissioner will write to you, the chief of police and the police officer concerned about his decision.

Police Complaints Board Hearing

15. If a Police Complaints Board hearing is ordered, you will be notified in writing of the date and place of the hearing. You have a right to attend and take part in the hearing and to be represented by counsel or an agent. You will also be given an opportunity, prior to the hearing, to examine any written or documentary evidence or any report that will be given in evidence at the hearing. The hearing will be open to the public. You will receive a copy of the Board's decision.

APPENDIX "C"

Ontario Regulation 854/81 (General)

EXTRACT FROM ONTARIO GAZETTE

THE METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

O. Reg. 854/81.
General.
Made—December 17th, 1981.
Filed—December 2[illegible]d, 1981.

REGULATION MADE UNDER THE METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

GENERAL

1.—(1) A complaint shall be recorded in Form 1.

(2) The statement to be furnished under subsection 6 (2) of the Act to the person making the complaint shall be in Form 2. O. Reg. 854/81, s. 1.

2. The record of an informal resolution of a complaint shall be in Form 3. O. Reg. 854/81, s. 2.

3. An interim or final investigation report shall be in Form 4. O. Reg. 854/81, s. 3.

4. An investigation under section 9 of the Act shall be pursued quickly and diligently and the investigator shall endeavour to obtain all information that may have a bearing on the complaint. O. Reg. 854/81, s. 4.

5. All information and evidence obtained in the investigation shall be recorded and preserved. O. Reg. 854/81, s. 5.

6. The investigator shall endeavour to interview the person making the complaint and the police officer concerned and to obtain written statements from them. O. Reg. 854/81, s. 6.

7. The investigator shall endeavour to interview the witnesses named by the person making the complaint and the police officer concerned and witnesses located as a result of the investigation and to obtain written statements from such witnesses. O. Reg. 854/81, s. 7.

8. The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigation and could only be preserved by way of photographs. O. Reg. 854/81, s. 8.

9. Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence. O. Reg. 854/81, s. 9.

10. The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint. O. Reg. 854/81, s. 10.

11. The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved. O. Reg. 854/81, s. 11.

12. Any information, notes or evidence, except physical evidence, that is required to be preserved under sections 5 and 11 shall be retained for a period of two years after the complaint is finally disposed of. O. Reg. 854/81, s. 12.

Example of Interim Report

Page 1 of 3 pages

Form 4

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

Report

1. File No.:
2. Date of Report: November 4, 1982.
3. Type of Report: ☒ Interim ☐ Final
4. Name of Complainant:
5. Name(s) of Police Officer(s) Involved (Include Rank and No.)
6. Name of Investigator: Staff Sergeant

Summary of Complaint

7. Date, Time and Location:
Saturday October 2, 1982, 1:30 a.m., East side of Millwood Bridge

8. Description of Alleged Misconduct:

The complainant was arrested for driving while impaired. He was manhandled to the ground, handcuffed and taken for a breathalyzer test. After he had blown once into the machine, the officer started to adjust the dials and when the complainant questioned this, he was grabbed by the hair, whacked on the hand and taken to the cells, charged with refusing to supply a sample.

Form 4

Page 2 of 3 pages

Investigation

9.

Date	Location	Type of Investigation and Information Obtained
October 4/82	Bureau	Complaint Form received at the Public Complaints Investigation Bureau.
October 5/82	Telephone	Investigator contacted the complainant and discussed the aspects of the complainant. Complainant does not agree to an Informal Resolution.
October 16/82	Telephone	Investigator obtained particulars from the Record of Arrest.
October 17/82	Telephone	Copy of Record of Arrest requested.
October 17/82	Mail	Officers reports requested.
October 19/82	Bureau	Record of Arrest received.
October 27/82	Telephone	Investigator spoke with the complainant who advised his trial date was November 19, 1982. The complaint was discussed and the status of the investigation.
October 29/82	Bureau	Some officers reports received, returned for clarification.

Form 4 Page 3 of 3 pages

11. Description and Analysis of Documentary and Physical Evidence obtained

Type of Evidence	Description	Analysis
Record of Arrest	For complainant	Indicates time, date, place of arrest, charges, names of officers and that the complainant had no apparent injuries and no complaints.

INTERIM REPORT ONLY

INVESTIGATION CONTINUING.

Dated at TORONTO, this 4th day of November, 1982..

"Signature of Investigator"
Signature of Investigator

Distribution:
- Complainant
- Police Officer(s) Involved
- Office of The Public Complaints Commissioner
- File

Example of Final Report

Page 1 of 6 pages

Form 4

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

Report

1. File No.: ____________________

2. Date of Report: December 6, 1982.

3. Type of Report : ☐ Interim ☒ Final

4. Name of Complainant: ____________________

5. Name(s) of Police Officer(s) Involved (Include Rank and No.) ____________________

6. Name of Investigator: Staff Sergeant

Summary of Complaint

7. Date, Time and Location:
Saturday, October 2nd, 1982 at 1:30 a.m.
East side of Millwood Bridge

8. Description of Alleged Misconduct:

See Interim Report dated November 4th, 1982 for Summary.

Form 4

Page 2 of 6 pages

Investigation

9.

Date	Location	Type of Investigation and Information Obtained
December 3/82		See Interim Report for Investigation to date.
December 3/82	Telephone	Investigator contacted the complainant and advised that the investigation was completed.

10 Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed

Summary of Statement
(include all relevant details)

.....

He was working with.....and they were on their way to a call.

He observed a van in front that appeared to be going well over the speed limit.

..... being the driver of the scout car, accelerated to a speed of 100 km/h and the van was still pulling away.

The van stopped and ..... approached the driver and he approached the passenger side of the vehicle.

The complainant got out of the van and began to speak with .... advised the complainant he had been stopped for speeding, the complainant denied this.

He detected the smell of an alcoholic beverage coming from the complainant's breath and his speech seemed to be slurred.

..... advised the complainant he was under arrest for impaired driving and took hold of the complainant's right arm and asked him to go to the rear of the police car.

The complainant said, "No, I don't think you have the right."

He then took hold of the complainant's left arm after the complainant had again refused to go.

The complainant was placed up against the side of the car in order to search him. The complainant refused and folded his arms in front of himself when the officers went to handcuff him. The complainant suddenly pushed away from the side of the car and the officer was knocked to the pavement. The officer still had hold of the complainant and, as he fell, he managed to pull the complainant down.

While on the ground the officers managed to get the complainant's arms behind his back and place the handcuffs on him and search him. The complainant was placed in the rear of the scout car.

He went to the complainant's van and searched the interior and located full and empty bottles of beer. He then secured the complainant's vehicle as

10. Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed	Summary of Statement (include all relevant details)
(con't)	best he could as two locks were not working. The complainant was then transported to ..... for breath samples. At the station the complainant was viewed. The Viewing officer again advised the complainant why he had been arrested. The complainant was placed in a room and later taken for breath tests. The complainant was later returned to the officers. The officer was advised that the complainant had refused to give suitable samples for an analysis to be made of his breath. The complainant was then transported back to ..... , paraded before a Sergeant and placed in the cells to sober up.
.....	He corroborates the statement of ..... and further adds, when the complainant was placed in the room at the station he requested a telephone call. The officer began dialing the number and the complainant then changed his mind and stated he would call his wife later. The complainant also advised that he wished to call his lawyer. The officer informed the complainant that now was the time to call his lawyer, prior to the breath test. The complainant refused the call.
.....	He was the breathalyzer officer and the complainant was brought before him. He interviewed the complainant, asked the complainant to supply a breath sample, which he did and the officer obtained a reading of 130 mgms. The complainant then stated he wanted to see how the machine worked and his attitude became very abusive. The complainant would not listen to anything the officer said to him. He began explaining how the machine worked and the complainant started to put his hands on the breathalyzer instrument and started to manipulate the balance wheel. He knocked the complainant's hand from the instruments and warned him not to touch the instrument. The complainant then began

10. Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed	Summary of Statement (include all relevant details)
	to interfere with the instrument and he was again warned. The officer then knocked the complainant's hand away again. The complainant again put his hand over the instrument and kept interfering with it, and was again warned. He realized if he did not get the complainant out of the room, there would be a good possibility the machine would have been damaged. He told the complainant to get out of the office, but he refused to leave. He then took hold of the complainant by the scruff of the neck and pulled him out of the seat and handed him over to the arresting officers. During the time the complainant was in his presence he was arrogant, abusive and kept denying he was impaired. After the complainant was removed from the office, he checked the machine and discovered the complainant had broken the bubbler and, without this, it would have given a wrong reading. He denies grabbing the complainant by the hair.
Sergeant from	The complainant was brought before him, interviewed and then placed into a room to be interviewed by the Breathalyzer Technician. The complainant made no complaint to him about the arresting officers or any complaint of injury. The complainant did not complain about ..... before being returned to .....
Sergeant, No.	The complainant was brought before him and he observed that the complainant was under the influence of something, he later discovered to be alcohol. The complainant was belligerent and was placed in the cell until the effects of the drink had worn off. At the time of the complainant's release he was an entirely different person and was most co-operative. As the complainant was walking out the door he

Form 4 Page 6 of 6 pages

11. Description and Analysis of Documentary and Physical Evidence obtained

Type of Evidence	Description	Analysis
	inquired where Headquarters was, so that he could complain. He advised the complainant as to the location.	
Station Operator	He observed the complainant when he was brought into the booking hall. The complainant was given a phone call which he signed for and was then placed in a cell to sleep off the effects of alcohol.	
Record of Arrest	The complainant was arrested for Impaired Driving and Refuse Samples. Medical Notes indicates no apparent injury, advised of rights and no complaints.	
Alcohol Influence Report, for the complainant	Indicates one reading had been taken and then the complainant was removed from the office, as he was interfering with the machine.	

THE CHIEF OF POLICE OR HIS DESIGNATE WILL REVIEW THIS INVESTIGATION REPORT AND YOU WILL BE NOTIFIED OF HIS DECISION IN DUE COURSE.

Dated at TORONTO, this 6th day of December, 19 82..

"Signature of Investigator"
Signature of Investigator

Distribution: Complainant
Police Officer(s) Involved
Office of The Public Complaints Commissioner
File

APPENDIX "F"

Example of Decision of Chief's Designate

Address all correspondence to the Chief of Police

Metropolitan Toronto Police

JOHN W. ACKROYD, *Chief of Police*

590 Jarvis Street
Toronto, Ontario
Canada. M4Y 2J5

(416) 967-2222.

Please reply attention of
Executive Services

File No. [redacted]

December 29, 1982

[redacted]
Toronto, Ontario.
M4L 2J1

Dear Sir:

This is to advise that your allegations against the members of this Force listed below, have been investigated by the Public Complaints Investigation Bureau:

[redacted]

The Bureau's investigation has been reviewed by me in my capacity as Complaint Review Officer, and following are my comments and finding:

Allegation No. 1

You allege that [redacted] kicked in the door with his gun drawn.

Comments:

[redacted] denies this. He says that when he was half through the open door, you slammed it on his chest. In the livingroom, he saw you go for something on your side. He twice demanded you put your hands forward, but you didn't. The officer then unholstered his revolver. He states that you then put both hands forward and seeing that you had nothing in your hands, he re-holstered his gun.

The officer had reasonable and probable grounds to believe that your driver's licence was under suspension. He had stopped you the previous day driving a motor vehicle. The Highway Traffic Act, Section 35, makes it an offence to drive a motor vehicle if your licence is suspended.

Section 190 of the Highway Traffic Act gives an officer the power to arrest, without warrant, a person who he believes on reasonable and probable grounds has committed the above offence.

Continued - 2.

Comments re Allegation No. 1 - Continued.

Section 246 of the Criminal Code pertains to the offence of "Assault Police".
Section 25(1) of the Criminal Code justifies the use of as much force as is necessary to enforce the law.
The Metropolitan Toronto Police Rules and Regulations and The Police Act govern when an officer may use his service revolver.

Allegation No. 2

You allege that [redacted] kicked you down the steps on the front path of the house.

Comments:

[redacted] denies this allegation and his denial is corroborated by

A witness who saw the incident states that [redacted] walked you down the steps to the car.

Allegation No. 3

You allege that while being transported to the station, you were beaten in the back seat of the police car.

Comments:

[redacted] denies this. He states that you went berserk in the car and had to be held down all the way into the station. [redacted] corroborate [redacted] denial.

Allegation No. 4

You allege that when you arrived at [redacted], you were assaulted by other officers after which you were taken upstairs.

Comments:

[redacted] states that upon arrival at [redacted] he took you to the Officer in charge and then up to the Criminal Investigation Office. He denies assaulting you and his denial is corroborated by [redacted]

The Officer in charge states that you told him you had been fighting with the officer who arrested you and had a sore chest. You made no mention of having been beaten in the car or at the station.

The investigating Sergeants asked you how you injured your ribs and you told them that you had fallen down the stairs. You made no complaint to them of having been beaten.

While making your complaint at the Complaint Bureau, you said that you resisted the officer's attempt to arrest you.

Finding:

Based on the evidence available, I find that no action is warranted against the police officers.

If you are not satisfied with my finding, you have the right to request a further review of your complaint by contacting Mr. S. Linden, Q.C., the Public Complaints Commissioner. His office is located at 157 Bloor Street West, Toronto, Ontario, M5S 1P7.

Yours very truly,

J. Noble,
Deputy Chief of Police,
Complaint Review Officer.

JN:wm

Copies to: ✓Public Complaints Commissioner,
[redacted]

APPENDIX "G"

DESCRIPTION OF PRECIPITATING FACTORS

Traffic Violations: Sole cause of police intervention is a Highway Traffic Act offence (not Criminal Code offence such as impaired driving, which would be coded as criminal investigation) and the allegation of misconduct arises out of this intervention. Example: Allegation that officer called complainant a "goof" when giving a speeding ticket.

Criminal Investigation: Sole cause of police intervention is the investigation of a criminal offence. Police may have been called in or intervened of their own accord and the allegation of misconduct arose when they were in the process of investigating a crime. Criminal investigation could occur anywhere, e.g., residence, shopping mall, police building. Example: Allegation of assault at police station while officers attempting to take a statement from the complainant to confess to a crime. Example: Officer has a description of a suspect. Complainant is walking along street. Officer thinks he has reasonable and probable grounds to believe that complainant is the suspect. Officer asks for identification. Complainant refuses. Officer arrests complainant. Allegation is that officer has no right to ask for identification.

Arrest: Allegation of misconduct occurs while police are in the act of effecting an arrest. Example: Same as in Criminal Investigation example, except that allegation is that officer struck complainant at time of arrest.

Interrogation unrelated to Criminal Activity: Questioning complainant about matters not related to any specific criminal offence. No indication that complainant is under arrest although he may be detained. If detained, complainant is released without being charged. Example: Complainant is walking along the street and asked why she is walking alone late at night, where she lives, who she lives with and where she works. Allegation is that officer was harassing her.

Request for Identification: Sole cause of police intervention is request for identification. No indication that complainant was involved in any offence or that police were investigating any offence and not a situation where it may be mandatory to identify oneself (e.g., Highway Traffic Act). Example: Complainant is walking along street and police officer asks her for her name. Complainant refuses and police officer then asks her to produce identification. Complainant again refuses. Allegation is that officer had no right to ask for identification and that officer shouted and swore at complainant following her second refusal; when she finally complied, the officer detained her in his police cruiser for twenty minutes while he checked her out over his radio.

Parking Violation: Sole cause of police intervention is a parking violation and allegation of misconduct arises out of this intervention. Example: Allegation that officer improperly exercised discretion when she gave complainant a ticket in a no parking zone. Complainant drives for a courier service in a clearly marked stationwagon with an "on delivery" sign. He was away from his vehicle for five minutes and officer was just beginning to write ticket when he returned, but would not listen to his explanation.

Domestic Matter: Sole cause of police intervention was a call to assist in a domestic dispute and allegation arises out of this intervention. Example: Allegation that officer struck complainant whose wife had called police to help her defend against a drunken husband.

No precipitating Factor: No apparent cause that precipitated the complaint. Example: Complainant standing on sidewalk. Police cruiser stops and with hand motions complainant to cross. Complainant did not wish to use crosswalk, i.e., was waiting for streetcar and motioned officer to this effect. Verbal abuse allegation followed.

Other: Situations that do no fall into any of the above categories. Example: Police officer attended complainant's home in uniform to collect overdue rent. Officer is landlord of this building.

Form 3

APPENDIX "H"
*Instruction Sheet

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

RECORD OF INFORMAL RESOLUTION OF COMPLAINT

Date of Complaint: *Enter date complaint reported as appears on Form 1.

File No.: *Enter Bureau file number and P.C.C. file number, if known.

Complainant: *Enter name of Complainant.

Name(s) of Officer(s) Concerned: *Enter only name(s) of Officer(s) complained about and include Badge Number, Rank and Division.
(Include Rank, No. & Division)

Resolved by: *Enter name, Badge Number, Rank and Division.

Summary of Complaint and Investigation:

*1) Summarize complaint as recorded on Form 1.

*2) If more than one complaint, make sure that each separate complaint is summarized.

*3) Summarize investigation done up to and including date of informal resolution, including any investigation done by the Officer who resolved the complaint.

*4) If investigation reveals that a complaint is different from the initial complaint, as recorded on Form 1, indicate difference.

*5) State Officer(s) response to the complaint(s). Response should fall under one of the following categories:

- a) Admission
- b) Explanation
- c) Denial
- d) Any combination of the above

Manner in which Complaint Resolved: *1) State why Complainant agreed to informal resolution. Reason(s) may be categorized as follows:

a) Satisfied that Officer(s) admitted to conduct complained about.

b) Accepted Officer(s) apology.

c) Accepted Officer(s) explanation.

d) Accepts that he may have been mistaken as to Officer(s) conduct.

e) Satisfied that Officer(s) made aware of complaint.

f) Satisfied that Officer(s)' superiors were made aware of complaint.

g) Satisfied that Officer(s) formally advised, counselled or cautioned about conduct.

h) Any combination of the above.

*2) State action taken against Officer(s) including date action taken and name of person who took such action against Officer(s).

(NOTE: Informal resolutions should not be made in cases where the Complainant's reason for signing Form 3 would be other than those indicated above. For example, in a case where there is no evidence other than that of the Complainant and the Officer(s) concerned, that one factor is not sufficient reason for an informal resolution.)

I have read the record of informal resolution as described above.

I agree with the contents and am satisfied with the resolution.

Dated at ______________________, this _____ day of ______________________, 19___.

Witnessed by:

______________________ ______________________
Signature of Complainant (date)

______________________ ______________________
Signature of Officer Concerned (date)

APPENDIX "I"
Mock Sample

Form 3

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

RECORD OF INFORMAL RESOLUTION OF COMPLAINT

Date of Complaint: May 1, 1982

File No.: 1-6-82 (P.C.C. File No. 216)

Complainant: John Doe

Name(s) of Officer(s) Concerned: P.C. John Smith, #111, No. 3 Traffic
(Include Rank, No. & Division) Sgt. John Jones, #444, 31 Division

Resolved by: Staff Sgt. Jackson, #555, --- Public Complaints Investigation Bureau

Summary of Complaint and Investigation: The Complainant was involved in an accident on May 1, 1982. P.C. Smith and Sgt. Jones arrived on the scene and approached the Complainant in order to interview him. The first words that P.C. Smith uttered were, "You're an a......, look what you did". The Complainant also alleges that Sgt. Jones used profanity against him. Sgt. Jones then asked him for his driver's licence and proof of insurance. The Complainant feels that as he was not at fault for the accident Sgt. Jones should not have required him to produce his driver's licence and proof of insurance.

On May 8, 1982, received accident report form.

May 9, 1982, spoke with P.C. Smith who advised that prior to speaking with the Complainant he had to comfort the other driver involved in the accident who was badly injured as her head had banged against the windshield and caused excessive bleeding. He admits that he swore at the Complainant.

May 10, 1982, interviewed Sgt. Jones and he denies swearing at the Complainant, admits asking the Complainant for his driver's licence and proof of insurance but explains that this is lawful under the provisions of the Highway Traffic Act.

May 11, 1982, spoke with Complainant and arranged for a meeting on June 1, 1982.

Manner in which Complaint Resolved: Both the Complainant and P.C. Smith attended before the writer at which time P.C. Smith apologized to the Complainant for his outburst. The Complainant accepted P.C. Smith's apology and they shook hands.

The writer advised the Complainant of Sgt. Jones' denial and the Complainant agreed that he may have been mistaken about whether or not Sgt. Jones swore at him.

The writer advised the Complainant about Sgt. Jones' explanation that it was proper and lawful for him to ask for a driver's licence and proof of insurance under the Highway Traffic Act. The writer showed the Complainant the relevant sections of the Highway Traffic Act. The Complainant was satisfied with Sgt. Jones' explanation.

Both the Complainant and P.C. Smith signed Form 3 on June 1, 1982 and Sgt. Jones signed Form 3 on June 2, 1982.

I have read the record of informal resolution as described above.

I agree with the contents and am satisfied with the resolution.

Dated at Toronto, this 1st day of June, 1982.

Witnessed by:

"Staff Sgt. Jackson, #555"	"John Doe"	June 1/82
	Signature of Complainant	(date)
"Staff Sgt. Jackson, #555"	"Sgt. John Jones"	June 2/82
"Staff Sgt. Jackson, #555"	"P.C. John Smith"	June 1/82
	Signature of Officer Concerned	(date)

APPENDIX "J"

Example of Report of the Public Complaints Commissioner after a Review

Investigation of a Complaint

pursuant to

The Metropolitan Police Force Complaints Project Act, 1981

Reference No: 123/45/83

Complainant: Randolph V. Marler

Investigator: Mr. John Alphabet

REPORT

The names of individuals, ships etc. in the following report have been changed. Except for that, the report is accurate.

OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER

COMPLAINANT: Randolph V. Marler DATE:

By letter dated May 11, 1982, Mr. Randolph V. Marler registered a complaint against Staff Sergeant Alpha and other officers with the Metropolitan Toronto Police Force subsequently identified as Sergeant Beta, Sergeant Gamma, Sergeant Delta and Sergeant Epsilon. In addition, the incident which precipitated the complaint involved two other officers with the Toronto Port Police.

Mr. Marler's complaint arose out of an incident that occurred on April 14, 1982, at approximately 12:45 p.m. on board the "Queen Elizabeth" owned by the A.B.C. Ship Lines. His allegations were investigated by a Staff Sergeant of the Public Complaints Investigation Bureau and on the basis of this investigation, the Acting Deputy Chief of Police determined that no action was warranted against any police officer with the Toronto Force.

By letter dated October 29, 1982, Mr. Counsel requested a review pursuant to Section 15(1) of the Metropolitan Police Force Complaints Project Act, 1981, on behalf of his client, Mr. Marler. Subsequently, by letter dated November 1, 1982, I informed the Chief of Police of the request for review and at the same time requested a photocopy of the contents of the Bureau's investigative file. The requested documentation was received by this office by November 5, 1982, and I have reviewed the contents.

It appears that the Bureau's investigation consisted of interviewing the complainant, interviewing and reviewing reports submitted by Sergeants Epsilon, Delta and Gamma of the "A Squad" and Sergeant Beta and Staff Sergeant Alpha of the

"B Squad". In addition, the two officers with the Port Police were interviewed as well as the shore captain of the A.B.C. Ship Lines, the captain of the "Queen Mary" and several witnesses aboard the ship. Medical information regarding the complainant's alleged injuries was also reviewed.

My investigator has re-interviewed the complainant, Sergeants Beta and Epsilon, one of the officers with the Port Police, and the civilian witnesses interviewed by the Bureau. Inspector C.C. of the Niagara Regional Police Force as well as additional civilian witnesses were also interviewed. Relevant documents including a copy of the warrant for the arrest of a Randolph Victor Marler as well as the company and medical records for Randolph V. Marler were also examined.

The incident which precipitated Mr. Marler's complaint is briefly summarized as follows:

> On Tuesday, April 13, 1982, a warrant was issued for the arrest of one "Randolph Victor Marler" wanted as a result of a stabbing of a female in the city of Port Colborne, Ontario. Acting on information received from an anonymous caller, Inspector C.C. of the Niagara Regional Police Force informed Sergeant Beta, "B Squad", Toronto Police Force, that Marler was working on a ship docked in Toronto Harbour. Based on the knowledge that Marler's background included shooting the Deputy Attorney General of Manitoba (1969) and armed robbery involving a shoot-out with police and the wounding of an officer (Huntsville, 1975), Inspector C. stressed that the wanted man would in all probability be armed, that he was very dangerous, and should be approached with extreme caution. He provided Sergeant Beta with a physical description of the suspect, including mention of a tattoo on his right leg.

> Sergeant Beta then contacted the Toronto Port Police with this information and requested their assistance. A Port Police officer telephoned the A.B.C. Ship Lines to confirm the tip that Marler was aboard a ship and learned that a man named Randolph Marler was serving as chief engineer of the "Queen Mary" docked in Toronto Harbour. Officers with the "B Squad" and "A Squad", along with two officers with the Port Police, met at Pier 35, and it was arranged that the Port Police officers should board the vessel first and make appropriate enquiries of the captain regarding the suspect. Once on deck, the two officers were approached almost immediately by a man who offered them his assistance and identified himself as Randolph Marler, chief engineer. Mr. Marler was quickly "directed" by one of the Port Police officers toward the rail and by a pre-arranged signal, the other officers were waved aboard. Mr. Marler was then handcuffed, arrested, and told he was being charged with first-degree murder.
>
> In a nearby cabin he was searched, and his legs checked for the identifying tattoo. After questioning Mr. Marler, the officers removed the cuffs and took him to headquarters for finger printing. This confirmed that he was not the wanted party and Mr. Marler was subsequently released and returned to his ship.

Mr. Marler's first complaint arising from this incident is that a totally inadequate investigation was done prior to approaching and arresting him as the wanted man. When the Port Police officer called his head office and learned that Randolph Marler was aboard the "Queen Elizabeth" as chief engineer, he made no further enquiries other than to state this was a very serious matter. This is confirmed by the shore captain who received his call.

When interviewed by my investigator, Mr. Marler stressed that the Port Police were thus remiss in their responsibility to determine if they were identifying the correct "Randolph Marler". He feels that with the knowledge that he, the Randolph Marler on the "Queen Mary" was chief engineer, and aware of the significance of that position, the officer then should have had some doubt as to whether he had the right man. Mr. Marler feels that the officer should have made a more thorough investigation regarding his full name and address, his physical description or his work record. Such information might have prevented the next stage of the investigation from becoming an unpleasant and embarrassing experience for the complainant.

I agree with the complainant that it is unfortunate that a more thorough investigation was not made by the Port Police officer at this initial stage of the incident. One must sympathize with Mr. Marler in his concern that he is so easily identified in the officer's mind as a murder suspect, when he holds a position of considerable responsibility and has a longstanding and excellent record of employment. However, as the decision of the Acting Deputy Chief indicates, at the time of this incident the Port Police did not come under the jurisdiction of the Toronto Police Force and thus no action could be taken against these officers.

Mr. Marler further complains that unnecessary and unwarranted force was used at the time of his arrest. This complaint relates primarily to the way in which he was first approached and handcuffed, and later questioned by the officers. In his letter of May 11, 1982, Mr. Marler states that, having identified himself to the (Port Police) officer, he "got behind me, put his left hand on my left shoulder and drove his right hand into my right trouser pocket where my wallet was". (When interviewed by my investigator, Mr. Marler wished it noted that he did not say that the officer "grabbed" his wallet as is indicated in the Acting Deputy Chief's letter). Mr. Marler goes on to say that he realized something was wrong but had no idea what was happening; he was now aware of more (officers) and a gun. He states that from nowhere came a pair of handcuffs, and as a result of his arm being grabbed and twisted behind his back while he was being handcuffed, his right arm was injured, and he needed medical attention and eventually time off work. He also adds that he "lost a lot of sleep just thinking about all those men with guns and no more intelligence than they proved they have. I am positive that if I have had as much as reached for my handkerchief to blow my nose, I would have been shot."

In his statement, Sergeant Epsilon identifies himself as the officer who told Mr. Marler that he was under arrest for first-degree murder, and placed the handcuffs on him, but he adds that he had "no difficulty in placing the cuffs on him" and that at no time did he use any undue force on the complainant. When interviewed by my investigator, Sergeant Epsilon stated that when he boarded the ship he was carrying a shotgun in one hand, held down towards the water, as was Sergeant Gamma, and that when he placed the cuffs on Mr. Marler, he was still holding the shotgun in his other hand. He added,however, that Mr. Marler appeared very co-operative and complied with no resistance, although he believed the complainant was quite nervous.

The statements of all the other officers present appear to agree with that of Sergeant Epsilon. They all indicated that Mr. Marler, although at first nervous and agitated, offered no resistance when he was handcuffed. He appeared to be very co-operative and at the time he was handcuffed he did not indicate that he was in any discomfort or had suffered any injury. However, later while being questioned and searched in the cabin, he did indicate that the cuffs were too tight and these were checked by one of the Port Police officers.

When interviewed by my investigator, Mr. Marler pointed out that once he had identified himself to the two Port Police officers everything happened so fast and he was so shocked by what was happening to him, that he neither had the opportunity nor in view of the guns would he have considered being anything but co-operative. Indeed, he felt that the fact that he quite willingly identified himself, and did co-operate fully, should have indicated to the officers that he was probably not the suspect and that the cuffs and the force used in questioning him were unnecessary. Moreover, he also felt that had the officers been more willing to listen to his explanation or those of the captain, or his fellow crew members, several of whom were now aware of the situation, the matter could have been cleared up more agreeably.

When interviewed by my investigator, these witnesses all indicated that they attempted to explain to the officers that Mr. Marler could not be the man wanted as he had been aboard the ship all the previous day; however, the officers ignored them. Several witnesses indicated that they found the officers' guns very intimidating and the officers' manners unnecessarily harsh and abrupt. They also indicated that Mr. Marler appeared to be very nervous.

Mr. Marler further alleges that while he was being questioned in the cabin, one of the officers, subsequently identified as a Port police officer, "kept hitting my ribs on my left side with his elbow", and that his leg was twisted while it was being examined. The Port police officer denies that Mr. Marler was questioned unduly harshly, and the statements of the other officers present indicate that Mr. Marler lifted his own leg up himself. Since only the officers and Mr. Marler were present in the cabin there is no further evidence to support or deny the complainant's allegation in this regard.

The evidence indicates that after questioning Mr. Marler further in the cabin, and after a check of his leg failed to reveal the identifying tattoo, the handcuffs were then removed from Mr. Marler. The officers then requested that in order to clear the matter up completely, Mr. Marler attend police headquarters with them and have his fingerprints checked. All officers' statements indicate that Mr. Marler did not appear to object to this.

When interviewed, Mr. Marler indicated that he did not feel that he was given much choice with regard to going to police headquarters. However, since he appeared to the officers to be agreeable to accompanying them, it cannot now be determined what would have happened had he refused to go.

With regard to Mr. Marler's complaint of injury to his right arm as a result of the force used in handcuffing him, the medical evidence appears to indicate that Mr. Marler did indeed suffer some discomfort after the incident as a result of a muscle strain above the right elbow. He indicated his discomfort to several of his associates and this is confirmed in their statements. There is no evidence however that Mr. Marler took time off work immediately after the incident. When interviewed, Mr. Marler explained to my investigator that this was because he was most anxious to take over his next position as chief engineer of the "Queen Victoria", sister ship to the "Queen Mary". He indicated that if he had not assumed his new duties immediately he might have lost that position. The statement from the captain of that vessel indicates that Mr. Marler's "bad elbow" hampered his work aboard the ship when manual labour with heavy machinery was required. Mr. Marler himself indicated that he eventually did take time off work when circumstances permitted.

It would appear that when Mr. Marler was returned to his ship after the trip to headquarters confirmed that he was not the suspect, Sergeant Alpha gave Mr. Marler his card and he and the complainant parted amicably. Nevertheless, when interviewed by my investigator, Mr. Marler expressed the additional concern to his original complaint that after his release, a follow-up call was not made to his employer by the police officers to explain the incident. He noted that if this incident had happened to an ordinary seaman and no explanation was received by his employer, it might have affected his chance for further employment.

After considering all the evidence associated with this unfortunate incident, I find myself in considerable sympathy with the complainant. Although the circumstances of his arrest must have both shocked and alarmed him, nevertheless he appeared to have handled an unpleasant siaution with remarkable control. It would appear that the concerns which led to his complaint developed after Mr. Marler had some time to consider what might have happened had he not been so co-operative. In addition, the physical discomfort which he suffered, though not sufficient to keep him from the challenge of his new position, also served to remind him that he had indeed been the victim of unfortunate and unusual circumstances. There may be some validity to his assertion that the situation might have been different had the Port Police officers investigated more fully the identity of their "suspect"; however, as their actions do not fall under the jurisdiction of this office, I can offer no further comment. It would then appear that given the information upon which the Toronto police officers were acting, they were prudent in taking the action they did when arresting a suspect whom they had reason to believe was extremely dangerous and possibly armed. Thus, I find that I must agree with the decision of the Acting Deputy Chief of Police that no action is warranted against any officer with the Toronto Police Force.

I would, however, like to comment on Mr. Marler's concern that there was no follow-up to this incident from the Police Force to his employer. It appears to me that common courtesy should have been required that the Police department provide some clarification of the incident to the employer either by means of a letter or phone call, to ensure that the complainant suffer no further embarrassment. Furthermore, though I commend Staff Sergeant Alpha for his initiative in this particular situation, I feel that in an incident like this, some more formal acknowledgement from the Department, of the distress and inconvenience caused a citizen along with an explanation as to why in fact the officers acted as they did in carrying out their duty, would be appropriate.

Having regard to all of the foregoing comments, I am satisfied that no further action be taken in this matter.

SIDNEY B. LINDEN
Public Complaints Commissioner

SBL/vmz

APPENDIX "K"

contact
contact
contact
contact

Commissioner

A civilian service set up
to resolve disputes between
You and Your Police.

Sidney B. Linden, Q.C.
Public Complaints
Commissioner

During the course of this pilot project I am hopeful that I will be able to count on the support of the citizens of Metropolitan Toronto, the Metropolitan Police Force and the Metropolitan Toronto Police Association.

I am confident that the expressions of goodwill received since my appointment as Public Complaints Commissioner will continue to provide a foundation for an atmosphere of co-operation and mutual respect that will ensure the success of this unique experiment.

Sincerely,

SIDNEY B. LINDEN, Q.C.
PUBLIC COMPLAINTS COMMISSIONER

Mr. Linden is a native of Toronto who, until his appointment as Public Complaints Commissioner, was a prominent member of the criminal bar and a well-known labour arbitrator. He was General Counsel to the Canadian Civil Liberties Association and served on its Board of Directors. He was Vice-President of the Criminal Lawyers Association and also active on the Legal Aid Committee of the Law Society of Upper Canada.

Questions & Answers about police complaints in Metropolitan Toronto

New procedures are now in place for handling complaints from members of the public against police officers on the Metropolitan Toronto Police Force. This new system is a marked departure from the previous one where the police alone were responsible for these matters.

A citizen can now lodge a grievance directly with an independent civilian who is not connected with the police in any way. This person, the Public Complaints Commissioner, has the power to do his own investigation, completely separate from that conducted by the police. He is responsible for making sure that all complaints concerning allegations of misconduct are dealt with promptly and fairly.

As well, he may order a public hearing by the newly-established Police Complaints Board. The members of this Board are also independent civilians.

The Public Complaints Commissioner is in a position to identify those police practices or procedures which may be particularly productive of citizen complaints and he can recommend that appropriate changes are made to remedy these situations.

To assist the public, the Office of the Public Complaints Commissioner has assembled answers to the following common questions often put to it about the Metropolitan Police Force Complaints Project Act, 1981.

Question

Where do I make a complaint about the conduct of a police officer on the Metropolitan Toronto Police Force?

Answer

You may make your complaint at any one of the following locations:

a) the Office of the Public Complaints Commissioner, 157 Bloor Street West, Toronto, Ontario M5S 1P7, telephone: 963-1141.

b) the Metropolitan Toronto Police Public Complaints Investigation Bureau, 3080 Yonge Street, Toronto, Ontario M4N 3N1, telephone: 967-2367.

c) any police station in Metropolitan Toronto (telephone 967-2222 for the station closest to you).

Question

When does the Public Complaints Commissioner become involved with my complaint?

Answer

IMMEDIATELY. No matter where you make your complaint, a copy is sent to the Office of the Public Complaints Commissioner. He monitors the investigation from the start.

Question

Who will investigate my complaint?

Answer

Initially, your complaint will be investigated by a police officer from the Public Complaints Investigation Bureau of the Metropolitan Toronto Police Force. The Bureau is a separate unit within the Force.

If it is possible for your complaint to be resolved informally, the officer in charge of the Bureau may attempt to do so, but only if you and the police officer involved agree.

Question

Can the Office of the Public Complaints Commissioner investigate my complaint?

Answer

YES. The Public Complaints Commissioner can conduct his own civilian investigation 30 days after you make your complaint. In some situations, the Public Complaints Commissioner can start his own investigation immediately.

Question

When do I find out about the status of my complaint?

Answer

In general, within 30 days of making a complaint, you will receive an interim report on the investigation done up to that time. You will also receive further reports during the course of the investigation and a final report when it is completed. All of these reports are in writing.

Question

What happens after the final investigation report is made?

Answer

The Chief of Police will review the matter, decide what action, if any, is to be taken, and give written notice of his decision to you, the Public Complaints Commissioner, and the police officer concerned.

Question

What if I am not satisfied with the decision made by the Chief of Police?

Answer

You may ask the Public Complaints Commissioner to conduct a review. He may order that a public hearing be held by the Police Complaints Board, if he believes that it is in the public interest to hold such a hearing.

Question

What is the Police Complaints Board?

Answer

The Police Complaints Board is a group of civilians specifically appointed to conduct hearings into citizens' complaints about the conduct of police officers on the Metropolitan Toronto Police Force. The Public Complaints Commissioner is the Chairman of the Board and he assigns members of the Board to conduct these hearings.

Question

Do I have the right to attend the Police Complaints Board hearing and take part in it?

Answer

YES. You will be notified in writing of the date of the hearing. A lawyer will present the case to the Board but you may choose to be represented by your own lawyer or an agent. You will also be given a chance, before the hearing, to examine any written evidence or any report that will be given in evidence at the hearing.

Question

If the Police Complaints Board finds that the police officer is guilty of misconduct, what penalties can it impose?

Answer

The penalties that can be imposed by the Police Complaints Board depend on the nature of the misconduct. The maximum penalty that the Board can impose is dismissal of the police officer from the Metropolitan Toronto Police Force.

Question

What if I want to complain about a police officer who does not belong to the Metropolitan Toronto Police Force?

Answer

Consult a member of the police force concerned, the local board of commissioners of police or the local municipal council. You may also contact the Ontario Police Commission, 25 Grosvenor Street, Toronto, Ontario M4A 2G9, telephone: 965-6071.

Question

What if I want to charge a police officer with a criminal offence or sue the police officer in the civil courts?

Answer

Your right to take either of these alternatives is not affected by this new complaints procedure.

You may charge a police officer with a criminal offence by attending at the office of a Justice of the Peace. For the office nearest you, telephone 965-7541.

If you want to sue a police officer, you should contact a lawyer.

All civil suits and some criminal charges must be started within six months of the date the incident occurred.

Question

Where can I get more information about the Metropolitan Police Force Complaints Project Act?

Answer

You can obtain a copy of the Act from the Ontario Government Bookstore, 880 Bay Street, Toronto, Ontario, telephone: 965-2054.

As well, you can telephone the Office of the Public Complaints Commissioner at 963-1141.

If you make a complaint, you will be given a document that sets out the procedures that are followed and your rights under the Act.

The Metropolitan Police Force Complaints Project Act, 1981, was proclaimed December 21, 1981. The project is funded by the Ontario Ministry of the Attorney General and the Municipality of Metropolitan Toronto.

The Office of the
Public Complaints Commissioner

157 Bloor Street West, Toronto, Ontario M5S 1P7
Telephone: 963-1141

APPENDIX "L"

Help us make it work.

If you have a complaint against the Metropolitan Toronto Police Force a new, independent service is available to help you. This service, headed by a civilian commissioner, is designed to resolve disputes between the police and the public they serve and protect.

Under the new law, passed by the Ontario Legislature, you can:

- Lodge a complaint directly with the office of the Public Complaints Commissioner.
- Get a written interim report on the status of the complaint if it is not resolved within thirty days.
- Get a final written report at the conclusion of the investigation.

The commissioner may direct a completely independent investigation into your case. If the commissioner considers it in the public interest, he may order a full public hearing before a civilian review board.

R. Roy McMurtry
Attorney General

Paul Godfrey
Metropolitan Toronto
Chairman

The Commissioner

He's Sidney Linden, Q.C., former general counsel to the Canadian Civil Liberties Association and Vice-President of the Criminal Lawyers Association and a citizen with a strong social conscience. He is the newly appointed independent Public Complaints Commissioner and his responsibility is to review all complaints against the police.

"I have the highest regard for him as a civil libertarian and for his appointment...He is a most credible person and an excellent lawyer." – Dr. Dan Hill, Special Adviser to the Mayor's Committee on Race and Community Relations, Toronto.

"I for one, have great confidence in Mr. Linden." – Alan Borovoy, Canadian Civil Liberties Association.

"...His reputation is excellent and completely acceptable." – Robert Nixon, Liberal M.P.P. and former Opposition Leader.

"The Council feels that Mr. Linden is a very capable criminal lawyer and will discharge his responsibilities with great awareness and with fair dealing." – Multicultural Council in Greater Toronto.

The system is set up to work for you. You have a personal contact. The essential ingredient is you. Help us make it work. For information please call 963-1141.

SANJH SAVERA 12.3.82. Page 6.

APPENDIX "L"

ਇਸਨੂੰ ਨੇਪਰੇ ਚਾੜਨ ਵਿਚ ਸਾਡੀ ਮੱਦਦ ਕਰੋ

ਜੇ ਤੁਹਾਨੂੰ ਮਿਟਰੋਪੋਲੀਟੀਅਨ ਟਰਾਂਟੋ ਪੁਲੀਸ ਵਿਰੁਧ ਕੋਈ ਸ਼ਿਕਾਇਤ ਹੈ ਤਾਂ ਇਕ ਅਜਿਹੀ ਜਗ੍ਹਾ ਤੁਸੀਂ ਪਹੁੰਚ ਕਰ ਸਕਦੇ ਹੋ ਜੋ ਹੁਣੇ ਹੁਣ ਚਾਲੂ ਕੀਤੀ ਗਈ ਹੈ ਅਤੇ ਬਿਲਕੁਲ ਆਜ਼ਾਦ ਹੈ। ਇਹ ਜਗ੍ਹਾ ਪੁਲੀਸ ਅਤੇ ਲੋਕਾਂ ਦੇ ਵਿਚ ਪੈਦਾ ਹੋਏ ਝਗੜਿਆਂ ਨੂੰ ਨਿਪਟਾਉਣ ਲਈ ਹੋਂਦ ਵਿਚ ਲਿਆਂਦੀ ਗਈ ਹੈ ਅਤੇ ਇਕ ਸਿਵਲੀਅਨ ਕਮਿਸ਼ਨਰ ਦੁਆਰਾ ਇਸ ਦੀ ਪ੍ਰਤੀਨਿਧਤਾ ਕੀਤੀ ਜਾਂਦੀ ਹੈ।

ਉਨਟਾਰੀਓ ਪ੍ਰਾਂਤ ਦੀ ਵਿਧਾਨ ਸਭਾ ਦੁਆਰਾ ਜੋ ਨਵਾਂ ਕਾਨੂੰਨ ਪਾਸ ਕੀਤਾ ਗਿਆ ਹੈ ਤੁਸੀਂ ਕਰ ਸਕਦੇ ਹੋ ਜਿਵੇਂ–

ਉਨਟਾਰੀਓ ਪ੍ਰਾਂਤ ਦੀ ਵਿਧਾਨ ਸਭਾ ਦੁਆਰਾ ਜੋ ਨਵਾਂ ਕਾਨੂੰਨ ਬਣਾਇਆ ਗਿਆ ਹੈ ਉਸ ਅਨੁਸਾਰ ਤੁਸੀਂ ਸਿੱਧੇ ਪਬਲਿਕ ਕੰਪਲੇਂਟ ਕਮਿਸ਼ਨਰ ਦੇ ਦਫਤਰ ਵਿਚ ਆਪਣੀ ਸ਼ਿਕਾਇਤ ਦਰਜ ਕਰ ਸਕਦੇ ਹੋ।

ਜੇ ਤੁਹਾਡੀ ਸ਼ਿਕਾਇਤ 30 ਦਿਨਾਂ ਦੇ ਅੰਦਰ ਅੰਦਰ ਹੱਲ ਨਹੀਂ ਕੀਤੀ ਗਈ ਤਾਂ ਤੁਸੀਂ ਇਸਦੇ ਸਬੰਧੀ ਵੀ ਲਿਖਤੀ ਰਿਪੋਰਟ ਲੈ ਸਕਦੇ ਹੋ।

ਫਾਈਨਲ ਦੇ ਫੈਸਲੇ ਦੀ ਆਪਣੀ ਲਿਖਤੀ ਰਿਪੋਰਟ ਹਾਸਿਲ ਕਰੋ।

ਕਮਿਸ਼ਨਰ ਨੂੰ ਅਧਿਕਾਰ ਹੈ ਕਿ ਉਹ ਪੂਰੀ ਆਜ਼ਾਦੀ ਨਾਲ ਖੁਦ ਤੁਹਾਡੇ ਕੇਸ ਦੀ ਫਿਰ ਪੜਤਾਲ ਕਰੇ। ਜੇ ਕਮਿਸ਼ਨਰ ਇਸ ਫੈਸਲੇ ਤੇ ਪੁਜਦਾ ਹੈ ਕਿ ਮਾਮਲਾ ਬੋਰਡ ਦੇ ਵਿਚਾਰ ਅਧੀਨ ਲੈ ਜਾਣਾ ਚਾਹੀਦਾ ਹੈ, ਤਾਂ ਉਹ ਅਜਿਹਾ ਵੀ ਕਰ ਸਕਦਾ ਹੈ ਕਿ ਮਾਮਲੇ ਦੀ ਤੁਹਾਡੀ ਸ਼ਿਕਾਇਤ ਸਿੱਧੀ ਬੋਰਡ ਸਾਹਮਣੇ ਕਰੇ।

ਪਹਿਰੇਦਾਰ

ਮਿਸਟਰ ਸਿਡਨੀ ਲਿੰਡਨ, ਜੋ ਕਿ ਕੈਨੇਡੀਅਨ ਸਿਵਲ ਲਿਬਰਟੀਜ਼ ਐਸੋਸੀਏਸ਼ਨ ਦਾ ਸਾਬਕਾ ਜਨਰਲ ਕੌਂਸਲ ਅਤੇ ਕ੍ਰਿਮੀਨਲ ਲਾਇਰਜ਼ ਐਸੋਸੀਏਸ਼ਨ ਦਾ ਮੀਤ ਪ੍ਰਧਾਨ ਹੈ। ਜੋ ਕਿ ਸਮਾਜਿਕ ਚੇਤਨਾ ਦਾ ਵਾਲਾ ਅਤੇ ਚੰਗਾ ਸ਼ਹਿਰੀ ਹੈ ਉਸਨੂੰ ਆਜ਼ਾਦ ਪਬਲਿਕ ਕੰਪਲੇਂਟ ਕਮਿਸ਼ਨਰ ਨਿਯੁਕਤ ਕੀਤਾ ਗਿਆ ਹੈ। ਉਸਦੀ ਡਿਊਟੀ ਹੈ ਕਿ ਉਹ ਪੁਲੀਸ ਵਿਰੁਧ ਲੋਕਾਂ ਦੀਆਂ ਸ਼ਿਕਾਇਤਾਂ ਦਾ ਨਿਪਟਾਰਾ ਕਰੇ।

"ਇਕ ਆਜ਼ਾਦ ਮਨੁੱਖ ਅਤੇ ਉਸਦੀ ਨਿਯੁਕਤੀ ਪੂਰੀ ਜੋ ਉਸਨੂੰ ਵਿਸ਼ਵ ਮਾਨ ਦੀ ਨਿਗਾਹ ਨਾਲ ਵੇਖਦਾ ਅਤੇ ਵਿਚਾਰ ਰਖਦਾ ਹਾਂ ਉਹ ਇਕ ਉਚ ਕੋਟੀਦਾ ਵਕੀਲ ਅਤੇ ਚੰਗਾ ਸ਼ਖ਼ਸੀਅਤ ਦਾ ਮਾਲਕ ਹੈ"– ਡਾ: ਇੰਦ ਸਿੰਘ, ਸੀਨੀਅਰ ਐਡਵਾਈਜ਼ਰ ਟੂ ਦੀ ਮੇਅਰਜ਼ ਕਮੇਟੀ ਆਨ ਰੇਸ ਐਂਡ ਕਮਿਊਨਿਟੀ ਰੀਲੇਸ਼ਨਜ਼ ਟਰਾਂਟੋ।

"ਮੈਂ ਉਸ ਵਿਚ ਦ੍ਰਿੜ ਨਿਸ਼ਚਾ ਰਖਦਾ ਹਾਂ ਉਹ ਬੜੇ ਉੱਚੇ ਹਨ ਦੇ ਵਿਸ਼ਵਾਸ ਦਾ ਮਾਲਕ ਹੈ।" ਰੋਬਰਟ ਨਿਕਸਨ, ਲਿਬਰਲ ਐਮ.ਪੀ.ਪੀ.ਐਂਡ ਲੀਡਰ ਓਪੋਜ਼ੀਸ਼ਨ ਲੀਡਰ।

"ਕੌਂਸਲ ਮਹਿਸੂਸ ਕਰਦੀ ਹੈ ਕਿ ਮਿਸਟਰ ਲਿੰਡਨ ਬਹੁਤ ਹੀ ਸੁਲਝਿਆ ਹੋਇਆ ਵਕੀਲ ਹੈ ਅਤੇ ਉਹ ਆਪਣੀਆਂ ਜ਼ਿੰਮੇਵਾਰੀਆਂ ਪੂਰੀ ਇਮਾਨਦਾਰੀ ਨਾਲ ਨਿਭਾਏਗਾ।" ਮਲਟੀਕਲਚਰਲ, ਕੌਂਸਲ ਗਰੇਟਰ ਟਰਾਂਟੋ।

ਇਹ ਪ੍ਰਣਾਲੀ ਤੁਹਾਡੇ ਲਈ ਹੁਣ ਚਾਲੂ ਕੀਤੀ ਗਈ ਹੈ। ਤੁਸੀਂ ਇਸ ਨਾਲ ਵਿਸ਼ਵਾਸਯੋਗ ਤੌਰ ਤੇ ਸੰਬੰਧ ਪੈਦਾ ਕਰ ਸਕਦੇ ਹੋ। ਇਸਨੂੰ ਨੇਪਰੇ ਚਾੜ੍ਹਨ ਲਈ ਸਾਡੀ ਮਦਦ ਕਰੋ ਤੁਸੀਂ ਹੀ ਲੋਕੀ ਦਾ ਤਾਲ ਹੋ। ਖੁਲ ਦਿਲ ਨਾਲ ਫੋਨ ਕਰੋ 963–1141

R. Roy McMurtry
Solicitor General

Paul Godfrey
Metropolitan Toronto
Chairman

APPENDIX "M"
Complaint Form

THE METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

COMPLAINT

DATE and TIME REPORTED

Day	Month	Year	Time

№ 9760

COMPLAINANT

Surname	First Name	Initial(s)	Date of Birth	Sex	Marital status
Home address	Postal Code	Telephone No. - Residence	Business address	Postal Code	Telephone No. - Business
Date of incident	Time	Location			Division

DETAILS OF INCIDENT (must be typewritten or printed)

SAMPLE SAMPLE SAMPLE

Use reverse side if more space required

Details of injuries sustained

Photographs taken NO ☐ YES ☐

Attending Physician

Name	Address	Telephone No.	Hospital attended	Date attended

WITNESS(ES)

Name	Address	Telephone No.

Did complainant require an interpreter? YES ☐ NO ☐

Language	Interpreter's name and address	Telephone No.

OFFICER(S) INVOLVED

Name and Rank	Number	Unit	Platoon

Form 2 given to complainant ☐ Yes ☐ No

If no, state reason:

COMPLAINT RECEIVED BY:

Name	Rank	Number	Unit

I CERTIFY THAT THE INFORMATION I HAVE GIVEN HEREIN IS TRUE

Signature of Complainant

DISTRIBUTION: Quadruplicate

WHITE:	Public Complaints Investigation Bureau
BLUE:	Public Complaints Commissioner
PINK:	Unit Commander of officer(s) in allegation
YELLOW:	S/Supt. (Supt) of officer(s) in allegation

OVER

APPENDIX "N"

The Metropolitan Police Force Complaints Project Act, 1981

BILL 68

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act for the establishment and conduct of a Project in The Municipality of Metropolitan Toronto to improve methods of processing Complaints by members of the Public against Police Officers on the Metropolitan Police Force

THE HON. R. MCMURTRY
* Solicitor General

*NOTE: By Order in Council dated January 22, 1982, this Act was transferred from the Ministry of the Solicitor General to the Attorney General's portfolio. Accordingly, the words "Solicitor General" should now be read as "Attorney General".

TORONTO
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BILL 68 **1981**

An Act for the establishment and conduct of a Project in The Municipality of Metropolitan Toronto to improve methods of processing Complaints by members of the Public against Police Officers on the Metropolitan Police Force

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Interpretation

1. In this Act,

(*a*) "Board" means the Police Complaints Board;

(*b*) "Bureau" means the Public Complaints Investigation Bureau;

(*c*) "chief of police" means the chief of police of the Metropolitan Police Force;

(*d*) "complaint" means a complaint by a member of the public, made orally or in writing, respecting the conduct of a police officer;

(*e*) "police officer" means a police officer on the Metropolitan Police Force;

(*f*) "prescribed" means prescribed by the regulations;

(*g*) "regulations" means the regulations made under this Act.

Application of Act

2. This Act applies only to complaints made by members of the public respecting the conduct of police officers on the Metropolitan Police Force and hearings under this Act and disciplinary proceedings under the *Police Act* and the regulations thereunder arising out of such complaints.

R.S.O. 1980, c. 381

Appointment of Public Complaints Commissioner

3.—(1) The Lieutenant Governor in Council shall appoint a Public Complaints Commissioner to exercise the powers and perform the duties assigned to him by this Act and the regulations.

Officers, etc.

R.S.O. 1970, c. 418

(2) Such officers and employees as are considered necessary from time to time for the purposes of the Public Complaints Commissioner may be appointed under the *Public Service Act*.

Annual report

(3) The Public Complaints Commissioner shall report annually upon the affairs of his office to the Solicitor General who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Audit

(4) The accounts of the Public Complaints Commissioner shall be audited annually by the Provincial Auditor.

Board established

4.—(1) A board to be known as the Police Complaints Board is hereby established.

Chairman

(2) The Public Complaints Commissioner shall be the chairman of the Board.

Composition and appointment

(3) The Board shall be composed of the chairman and as many other members as the Lieutenant Governor in Council considers proper and such members shall be appointed by the Lieutenant Governor in Council.

Qualifications

(4) One-third of the members of the Board shall be persons who have had training in law.

Recommendation for appointment

(5) The Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association shall jointly recommend to the Solicitor General for appointment to the Board such number of persons, other than police officers, as will constitute one-third of the membership of the Board.

Idem

(6) The council of The Municipality of Metropolitan Toronto shall recommend to the Solicitor General for appointment to the Board such number of persons as will constitute one-third of the membership of the Board.

Idem

(7) Recommendations under subsections (5) and (6) shall be made to the Solicitor General within such time as he may specify.

Remuneration

(8) The members of the Board shall receive such salaries or remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

Duties of chairman

(9) The chairman shall have general supervision and direction over the conduct of the affairs of the Board and shall arrange the sittings of the Board and assign members to conduct hearings as circumstances require.

Summaries and report

(10) The Board shall prepare and publish periodically a summary of its decisions and the reasons therefor and shall report annually on its affairs to the Solicitor General who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Audit

(11) The accounts of the Board shall be audited annually by the Provincial Auditor.

Officers, etc.

R.S.O. 1980, c. 418

(12) Such officers and employees as are considered necessary from time to time for the purposes of the Board may be appointed under the *Public Service Act*.

Bureau to be established

5.—(1) The chief of police shall establish and maintain for the purposes of this Act a branch of the Metropolitan Police Force to be known as the Public Complaints Investigation Bureau.

Staff

(2) The chief of police shall ensure that the Bureau is supplied with sufficient staff to effectively receive, record and investigate complaints.

Where complaints may be made

6.—(1) A member of the public may make a complaint at the Bureau, at any police station in Metropolitan Toronto or at the office of the Public Complaints Commissioner.

Information

(2) The person who receives a complaint shall record the complaint in the prescribed form and shall furnish the person making the complaint with a prescribed statement that sets out the procedures that will be followed respecting the complaint and the rights under this Act of the person making the complaint.

Copy of complaint

(3) Where a complaint is recorded at a police station, the person recording the complaint shall forward forthwith to the Bureau and to the Public Complaints Commissioner a copy of the complaint.

Idem

(4) Where a complaint is recorded at the Bureau, the person recording the complaint shall forward forthwith to the Public Complaints Commissioner a copy of the complaint.

Idem

(5) Where a complaint is recorded at the office of the Public Complaints Commissioner, the person recording the complaint shall forward forthwith to the Bureau a copy of the complaint.

Police officer to be informed

7. Upon receipt of a complaint, the person in charge of the Bureau shall inform forthwith the police officer concerned of the substance of the complaint, unless, in the opinion of such person, to do so might adversely affect any investigation of the complaint.

Informal resolution

8.—(1) The person in charge of the Bureau shall consider whether a complaint can be resolved informally and, with the consent of the person making the complaint and the police officer concerned, may attempt to so resolve the complaint.

Record of informal resolution

(2) Where a complaint is resolved informally, a record shall be made of the manner in which the complaint was resolved and the person making the complaint and the police officer concerned shall each signify in writing his agreement to such resolution.

Copy of record to be furnished

(3) A copy of a record made under subsection (2) shall be furnished forthwith to the Public Complaints Commissioner, the person making the complaint and the police officer concerned.

Informal resolution

(4) A complaint may be resolved informally by the person in charge of the Bureau in accordance with the procedures in this section at any time during the course of or after an investigation under section 9.

Idem

(5) A complaint may be resolved informally by the Public Complaints Commissioner in accordance with the procedures in this section at any time during the course of or after a review under section 15.

No reference in personal record of police officer

(6) No reference shall be made in the personal record of a police officer to a complaint resolved under this section, except where misconduct has been admitted by the police officer.

Investigation

9.—(1) Where a complaint is not resolved informally, the person in charge of the Bureau shall cause an investigation to be made forthwith into the complaint in accordance with prescribed procedures.

Interim reports

(2) The person in charge of the Bureau shall forward to the Public Complaints Commissioner, the person who made the complaint and the police officer concerned an interim report in the prescribed form providing a summary of the investigation to date not later than thirty days after receipt of the complaint and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation.

Exception

(3) Notwithstanding subsection (2), the person in charge of the Bureau may decide not to make a report to the person who made the complaint and the police officer concerned where, in his opinion, to do so might adversely affect the investigation of the complaint or where there are no new matters to report, in which

case the person in charge of the Bureau shall forthwith notify the Public Complaints Commissioner of the reasons for his decision.

Final report

(4) Where an investigation has been completed, the person in charge of the Bureau shall cause a final investigation report to be prepared and shall forward a copy thereof to the Public Complaints Commissioner, the chief of police, the person who made the complaint and the police officer concerned.

Idem

(5) A final investigation report prepared under subsection (4) shall,

(*a*) contain a summary of the complaint and a description of the alleged misconduct by the police officer;

(*b*) contain a summary of the investigation and of information obtained from the person who made the complaint, the police officer concerned and witnesses, if any; and

(*c*) contain a description and analysis of any physical evidence obtained.

Powers and duties of chief of police

10.—(1) The chief of police shall review a final investigation report and he may order such further investigation as he considers advisable and may, unless he decides that no action is warranted,

(*a*) cause an information alleging the commission of an offence by the police officer concerned to be laid and refer the matter to the Crown attorney for prosecution;

(*b*) refer the matter to the Board for a hearing by the Board;

(*c*) cause disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder; and

R.S.O. 1980, c. 381

(*d*) after giving the police officer concerned an opportunity to reply to the complaint, either orally or in writing, counsel or caution the police officer regarding his conduct,

but where the chief of police takes action under clause (*b*), (*c*) or (*d*), he shall not take action under any other of those clauses.

Hearing not stayed

(2) Where the chief of police causes an information to be laid under clause (1) (*a*), such action shall not stay any hearing by the chief of police or by the Board unless the chief of police or the Board, as the case may be, is of the opinion that the hearing should be stayed until the court proceedings have been concluded.

Notice of action taken

(3) The chief of police shall give forthwith written notice of any action taken by him under subsection (1) or of his decision that no action is warranted to the Public Complaints Commissioner, the person who made the complaint and the police officer concerned and, where his decision is that no action is warranted or he has taken action under clause (1) (*d*), the chief of police shall give his reasons therefor.

Designation by chief of police

(4) The chief of police may designate any police officer to exercise any of his powers and perform any of his duties under this Act and the police officer so designated has the powers and duties set out in the designation and where any power is conditional on the opinion of the chief of police, the requisite opinion shall be that of the designated officer.

Application of s. 19

R.S.O. 1980, c. 381

11.—(1) Where the chief of police has caused disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder, subsections 19 (4), (6), (10), (11) and (12) of this Act apply with necessary modifications to a hearing held in connection with such proceedings.

Notice of decision

(2) The chief of police or, if he is not the person who holds a hearing referred to in subsection (1), the person who holds the hearing shall give forthwith written notice of his decision together with his reasons therefor to the Public Complaints Commissioner, the person who made the complaint and the police officer concerned.

Police officer may appeal

12. Where a hearing referred to in subsection 11 (1) has been held and a penalty has been imposed upon a police officer, the police officer may appeal to the Board under section 13 of this Act and not as provided in the *Police Act* and the regulations thereunder.

Notice of appeal

13.—(1) A notice of appeal shall be served on the Board within fifteen days after the police officer receives notice of the penalty imposed.

Extension of time

(2) Notwithstanding subsection (1), where the chairman of the Board is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for granting an extension, he may extend the time for giving the notice either before or after the expiration of the fifteen day period referred to in subsection (1) and may give such directions as he considers proper consequent upon such extension.

Powers and duties of Public Complaints Commissioner

14.—(1) The Public Complaints Commissioner,

(*a*) shall maintain copies of all records, reports and other material received by him under this Act;

(*b*) shall monitor the handling of complaints by the Bureau and the chief of police;

(*c*) shall review the record of the informal resolution of a complaint by the person in charge of the Bureau and may request that the person in charge of the Bureau cause an investigation or further investigation, as the case may be, to be made into the complaint;

(*d*) may, upon receipt of a copy of the final investigation report from the person in charge of the Bureau, request that the chief of police cause further investigation to be made into the complaint;

(*e*) shall receive a request for a review under section 15; and

(*f*) shall evaluate the effectiveness of the system for handling complaints.

Results to be forwarded

(2) Where the person in charge of the Bureau or the chief of police causes an investigation to be made under clause (1) (*c*) or (*d*), as the case may be, he shall forward the results of his investigation to the Public Complaints Commissioner.

Public Complaints Commissioner may inquire and investigate

(3) Notwithstanding any other provision of this Act, the Public Complaints Commissioner may inquire into and investigate the allegations in the complaint,

(*a*) at any time after he receives the first interim report under subsection 9 (2) or the thirty-day period mentioned therein has expired;

(*b*) upon the request of the chief of police; or

(*c*) where there are reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of an investigation under section 9.

Review of decision

R.S.O. 1980, c. 224

(4) A decision to take action under clause (3) (*c*) shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Notice to chief of police

(5) The Public Complaints Commissioner shall forthwith notify the chief of police in writing of his intention to conduct an inquiry and investigation under clause (3) (*a*) or (*c*) and shall give his reasons therefor in writing and, after he completes any inquiry and investigation under subsection (3), he shall forward the results thereof to the chief of police, and the chief of police shall consider such results in his review of the final investigation report under subsection 10 (1).

Request for review

15.—(1) Where a person who has made a complaint is dissatisfied with the decision made on a disciplinary proceeding arising out of his complaint that is not a decision of the Board or with action taken by the chief of police under clause 10 (1) (*d*) or with a decision of the chief of police that no action is warranted, he may request the Public Complaints Commissioner to review the matter.

Hearing may be ordered

(2) Where the Public Complaints Commissioner receives a request under subsection (1), he shall review the matter and may, after such review, order a hearing by the Board if he believes that, in the public interest, such a hearing is required or he may decide to take no further action.

Notice

(3) The Public Complaints Commissioner shall give forthwith written notice to the chief of police, the person who made the complaint and the police officer concerned of his decision under subsection (2) and, where his decision is to take no further action, shall give his reasons therefor.

Where hearing not to be ordered

(4) The Public Complaints Commissioner shall not order a hearing under subsection (2) where a police officer has appealed to the Board under section 13.

Powers on investigation

16.—(1) For the purposes of a review under section 15, the Public Complaints Commissioner may inquire into and investigate the allegations in the complaint and, for such purposes, he may, after informing the chief of police, enter a police station and examine therein books, papers, documents and things related to the complaint.

Powers on inquiry

R.S.O. 1980, c. 411

(2) For the purposes of an inquiry, the Public Complaints Commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

Appointment of person to make inquiry and investigation

(3) The Public Complaints Commissioner may, in writing, appoint a person to make any inquiry and any investigation he is authorized to make and the person so appointed has all the powers and duties of the Public Complaints Commissioner relating to the inquiry and the investigation.

Report

(4) The person appointed to make an inquiry or investigation shall report the results of his inquiry or investigation to the Public Complaints Commissioner.

Obstruction

(5) No person shall obstruct the Public Complaints Commissioner or a person appointed by him to make an investigation or withhold from him or conceal or destroy any books, papers, documents or things related to the investigation.

(6) Where a justice of the peace is satisfied upon an *ex parte* application by the Public Complaints Commissioner that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to an investigation, the justice of the peace may issue an order authorizing the Public Complaints Commissioner, together with such persons as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between 6 a.m. and 9 p.m., standard time, unless the justice of the peace, by the order, otherwise authorizes. Search warrant

(7) The Public Complaints Commissioner may, upon giving a receipt therefor, remove any books, papers, documents or things examined under subsection (1) or (6) relating to the investigation and shall with reasonable dispatch make copies of such books, papers or documents and return them promptly thereafter to the person from whom they were removed. Removal of books, etc.

(8) Any copy made as provided in subsection (7) and certified to be a true copy by the Public Complaints Commissioner is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

(9) The Public Complaints Commissioner may appoint an expert to examine books, papers, documents or things examined under subsection (1) or (6). Appointment of experts

(10) This section applies with necessary modifications to an inquiry and investigation by the Public Complaints Commissioner under subsection 14 (3). Application

17. Where, after making a review, the Public Complaints Commissioner is of the opinion that a police practice or procedure should be altered, he shall report his opinion and recommendations to the Solicitor General, the Ontario Police Commission, the Metropolitan Board of Commissioners of Police and the chief of police. Report

18.—(1) Where, Conduct of hearing

(*a*) the chief of police has referred a matter to the Board under clause 10 (1) (*b*);

(*b*) a police officer has appealed to the Board under section 13; or

(*c*) the Public Complaints Commissioner has, under subsection 15 (2), ordered a hearing, the Board shall hold a hearing and the Public Complaints Commissioner shall assign in accordance with this section a member or members of the Board to conduct the hearing.

Idem

(2) Where, in the opinion of the Public Complaints Commissioner, the complaint alleges misconduct by the police officer that is of a minor nature, he shall assign a member of the Board who has had training in law to sit alone to conduct the hearing.

Idem

(3) Where, in the opinion of the Public Complaints Commissioner, the complaint alleges misconduct by a police officer that is of a serious nature, he shall assign three members of the Board who shall constitute a panel to conduct the hearing.

Who shall be on panel

(4) The chairman of the panel constituted under subsection (3) shall be a member of the Board who has had training in law and, where possible, one member of the panel shall be a person appointed to the Board on the joint recommendation of the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association and one member shall be a person appointed to the Board on the recommendation of the council of The Municipality of Metropolitan Toronto.

Eligibility

(5) Where the chief of police has referred a matter to the Board or a police officer has appealed to the Board, the Public Complaints'Commissioner is eligible to sit alone to conduct the hearing under subsection (2) and to be chairman of a panel constituted under subsection (3).

Idem

(6) Where the Public Complaints Commissioner has ordered a hearing by the Board, he is not eligible to sit alone to conduct the hearing under subsection (2) or to be a member of a panel constituted under subsection (3).

Public Complaints Commissioner required to sit

(7) Where a police officer has appealed to the Board and the Public Complaints Commissioner is of the opinion that the complaint alleges misconduct that is of a minor nature, he shall so advise the police officer who may by written notice given within seven days require that the Public Complaints Commissioner be the member who sits alone to conduct the hearing.

Decisions

(8) A decision of a member of the Board sitting alone and a decision of a majority of a panel is a decision of the Board and, for all purposes of a hearing, the member sitting alone or the panel, as the case may be, shall be deemed to be the Board.

Hearing

19.—(1) The Board shall appoint a time for a hearing and shall conduct a hearing *de novo*.

Notice of hearing

(2) The Board shall give to the chief of police, the person who made the complaint and the police officer concerned written notice of the hearing and of the time appointed therefor.

Opportunity to be heard

(3) The person who made the complaint may attend at the hearing and be represented by counsel or an agent and shall be given an opportunity to be heard and to examine before the hearing the written or documentary evidence or report referred to in subsection (4).

Opportunity to examine evidence

(4) The police officer concerned shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Member holding hearing not to communicate with party

(5) The member or members of the Board conducting a hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Oral evidence

(6) The oral evidence given at the hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Counsel

(7) The Board may appoint counsel to assist the Board at the hearing.

Only members at hearing to participate in decision

(8) No member of the Board shall participate in a decision following the hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision shall be given unless all members so present participate in the decision.

Release of documents

(9) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him within a reasonable time after the matter in issue has been finally determined.

Police officer not required to give evidence

R.S.O. 1980, c. 484

(10) Notwithstanding section 12 of the *Statutory Powers Procedure Act*, the police officer concerned shall not be required to give evidence at the hearing nor shall any statement or answer required to be given by him in respect of the complaint made against him be admitted in evidence at the hearing, except with his consent.

Statement or admission not admissible in evidence

(11) Where the person in charge of the Bureau attempts to resolve a complaint informally and the complaint is not so resolved, any statement or admission made during such attempt by the

police officer concerned or by the person who made the complaint shall not be admitted in evidence at the hearing, except with the consent of the police officer or the person who made the complaint, as the case may be.

Proof of misconduct

(12) No finding of misconduct by the police officer shall be made unless the misconduct is proved beyond a reasonable doubt.

Imposition of penalty

(13) Where a member of the Board sitting alone finds the police officer guilty of misconduct, he may,

(*a*) direct that days off not exceeding five days be forfeited;

(*b*) direct that pay not exceeding three days pay be forfeited; or

(*c*) reprimand the police officer.

Idem

(14) Where a panel of the Board finds the police officer guilty of misconduct, it may,

(*a*) dismiss the police officer from the Metropolitan Police Force;

(*b*) direct that the police officer resign from the Metropolitan Police Force and, in default of resigning within seven days, be summarily dismissed;

(*c*) reduce the police officer in rank or gradation of rank and in pay in accordance with the rank to which he is reduced;

(*d*) suspend the police officer from duty without pay for a period not exceeding thirty days;

(*e*) direct that days off not exceeding twenty days be forfeited;

(*f*) direct that pay not exceeding five days pay be forfeited; or

(*g*) reprimand the poice officer, which reprimand may be in lieu of or in addition to any other penalty imposed.

Notice of decision

(15) The Board shall give forthwith written notice of its decision and the reasons therefor to the chief of police, the person who made the complaint and the police officer concerned.

(16) No reference to a hearing conducted by the Board shall be made in the personal record of the police officer concerned unless the Board has made a finding of misconduct by the police officer. No reference to hearing

(17) The Metropolitan Board of Commissioners of Police may, in such cases and to such extent as it thinks fit, pay any legal costs incurred by a police officer in respect of a hearing conducted by the Board and an appeal under section 20. Costs may be paid

20.—(1) A party to a hearing by the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court. Appeal

(2) The Solicitor General is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Solicitor General entitled to be heard

(3) An appeal under this section may be made on a question that is not a question of fact alone or from a penalty imposed under subsection 19 (14), or on both the question and the penalty. What may be appealed

21. Any notice, report or other material required to be given, furnished, forwarded or otherwise served under this Act is sufficiently served if delivered personally or sent by prepaid first class mail addressed to the person on whom service is required to be made at his last known or usual place of abode. How notice, etc., may be served

22.—(1) Every person engaged in the administration of this Act and the regulations, including a member of the Metropolitan Police Force, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties and shall not communicate any such matter to any other person except, Matters confidential

(*a*) as may be required in connection with the administration of this Act and the regulations or the *Police Act* and the regulations thereunder; R.S.O. 1980, c. 381

(*b*) as may be required for the due enforcement of the law;

(*c*) to his counsel; or

(*d*) with the consent of the person to whom the matter relates.

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder. Testimony

What is inadmissible in evidence

R.S.O. 1980, c. 381

(3) No record, report, writing or document arising out of a complaint is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

Idem

(4) No oral statement, answer or admission referred to in subsections 19 (10) and (11) is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

R.S.O. 1980, c. 325 does not apply

23. The *Ombudsman Act* does not apply to the Public Complaints Commissioner or the Board.

Moneys

24.—(1) The moneys required for the purposes of the Public Complaints Commissioner and the Board shall, until the 31st day of March, 1982, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

Idem

(2) The Solicitor General, with the approval of the Lieutenant Governor in Council, and The Municipality of Metropolitan Toronto may enter into an agreement to provide for the payment by the municipality to the Treasurer of Ontario on such terms and conditions as may be agreed upon of contributions in respect of the moneys required for the purposes of the Public Complaints Commissioner and the Board.

Offence

25. Any person who contravenes subsection 16 (5) or subsection 22 (1) is guilty of an offence and on conviction is liable to a fine of not more than $2,000.

Regulations

26. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing what shall be taken into account in determining whether misconduct is of a minor or serious nature;

(*b*) defining conduct that may be the subject of a complaint;

(*c*) respecting the reporting and publication of decisions of the Board;

(*d*) assigning duties to the Public Complaints Commissioner;

(*e*) prescribing criteria to be used by the Public Complaints Commissioner in evaluating the effectiveness of the system for handling complaints;

(*f*) prescribing forms and providing for their use; and

(*g*) prescribing any matter that by this Act is required to be or is referred to as prescribed.

27.—(1) This Act is repealed on a day that is three years after it comes into force or on such day thereafter as is named by proclamation of the Lieutenant Governor. Repeal

(2) The Public Complaints Commissioner shall prepare a report evaluating the effectiveness of the system for handling complaints during the three years of operation of the project and shall forward copies of the report to the Solicitor General and the council of The Municipality of Metropolitan Toronto. Report

(3) The Solicitor General shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Idem

28. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

29. The short title of this Act is the *Metropolitan Police Force Complaints Project Act, 1981*. Short title

BILL 68

An Act for the establishment and conduct of a Project in The Municipality of Metropolitan Toronto to improve methods of processing Complaints by members of the Public against Police Officers on the Metropolitan Police Force

1st Reading

May 15th, 1981

2nd Reading

July 3rd, 1981

3rd Reading

November 17th, 1981

THE HON. R. MCMURTRY
Solicitor General

1981

POOR

QUALITY

ORIGINAL